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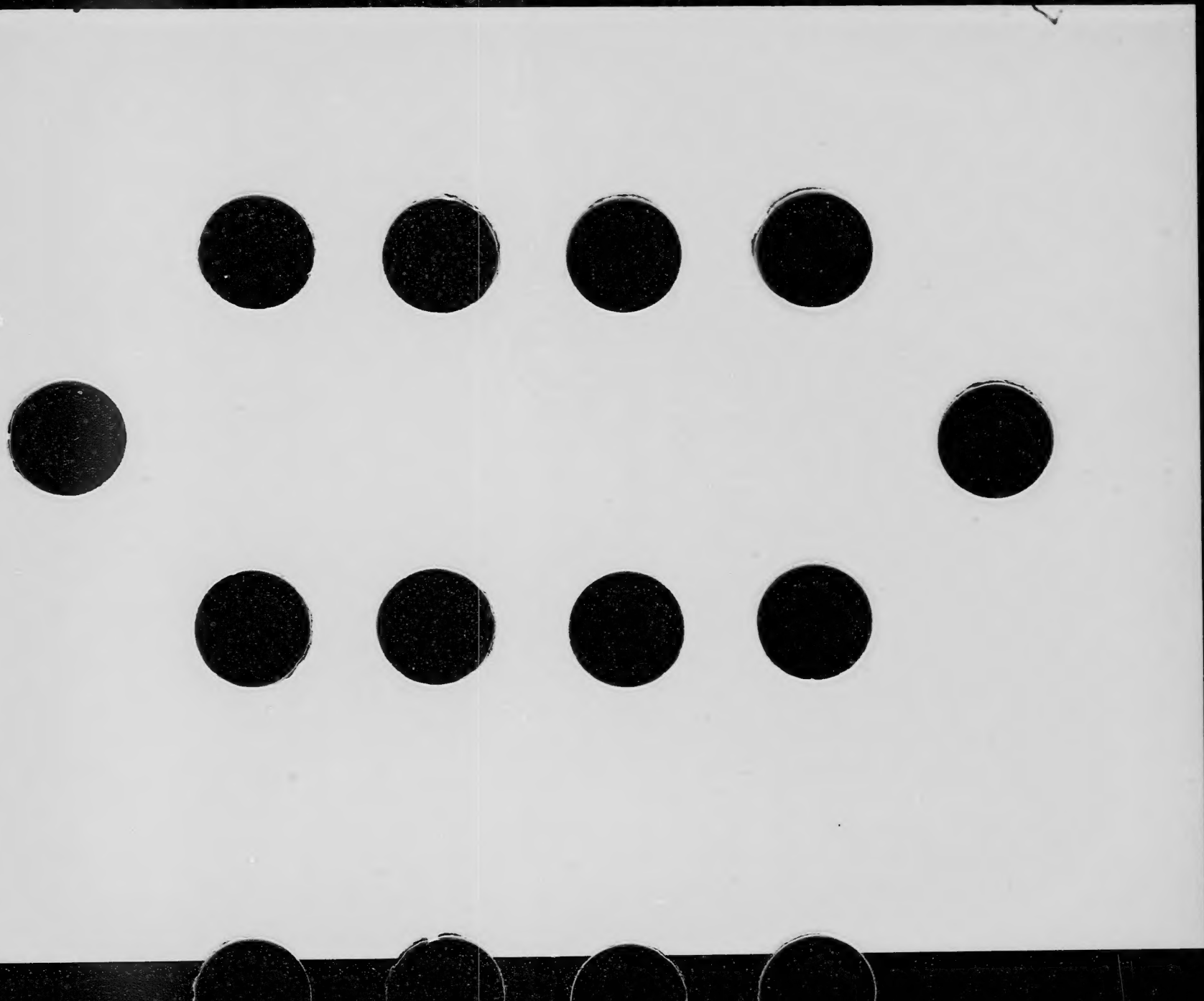

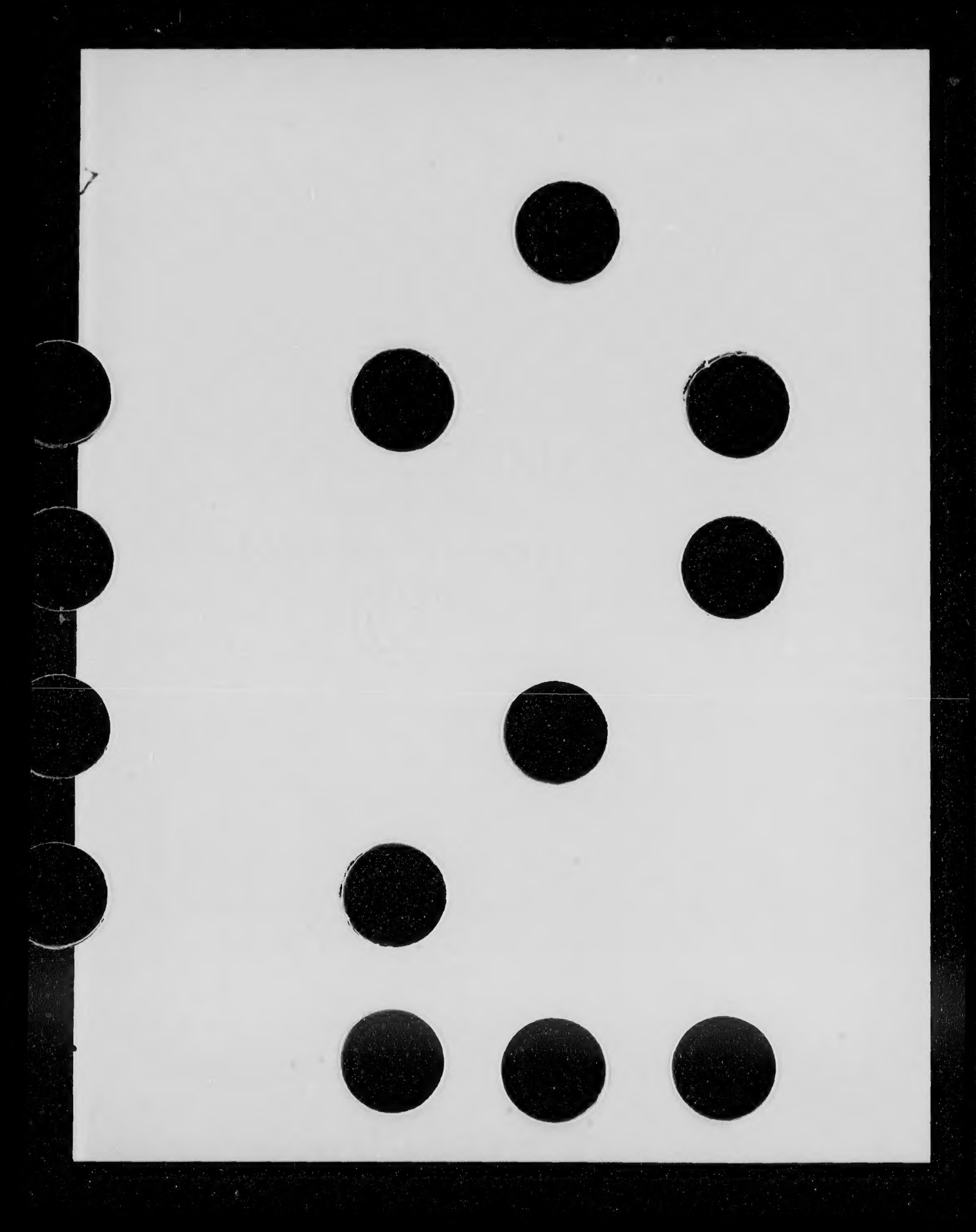

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DEPARTMENT OF CULTURAL RESOURCES

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Volume: 64

Year: August 22, 1995 - April 16, 1996

Pages: 1-372

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Tuesday - August 22, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood (arrived at meeting at 5:20 p.m.) and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Vice-Mayor Peterson gave the invocation.

Mayor Martin asked for a moment of silent prayer for Lonnie and Lucille Burton who died in an airplane crash on August 21, 1995.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING AUGUST 25-27, 1995, AS "GOOMBAY! DAYS IN ASHEVILLE"

Mayor Martin proclaimed Friday, August 25 - Sunday, August 27, 1995, as "GOOMBAY! Days in Asheville". He presented the proclamation to a representative of the YMI Cultural Center who briefed the Council on activities that would take place during the Festival.

B. PRESENTATION OF AWARDS TO ROXIE WYNN, BOB WILSON AND SHAWN McANDREW

Mayor Martin presented awards to Ms. Roxie Wynn, Assistant Personnel Director, Mr. Bob Wilson, Summer Youth Counselor, and Mr. Shawn McAndrew, Summer Youth Counselor, for their outstanding work on the 1995 City of Asheville's Summer Youth Program.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING THE CHARTER AND RELATED LAWS OF THE CITY OF ASHEVILLE TO PROVIDE FOR FOUR-YEAR STAGGERED TERMS FOR CITY COUNCIL

Mayor Martin opened the public hearing at 5:15 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

At 5:20 p.m., Councilman Swicegood arrived at the meeting.

City Attorney Slawter said that the North Carolina General Statutes authorize the City Council to modify the form of city government in several ways by following the same procedure that was followed last year for the change to non-partisan elections. Any such change enacted by the Council may be made subject to a referendum if the Council desires. When the Council previously discussed a change to four-year staggered terms, the Council expressed a desire to place that issue on the November 1995 ballot. A resolution scheduling a public hearing in order to initiate the process was adopted on August 8, 1995, to begin that process. The resolution makes no change regarding the term of the Mayor.

He then said that in order to begin the staggered terms, the three members of Council elected to the Council in the 1997 election who received the highest number of votes will serve a term of four years and the other three members of Council elected in the 1997 election will serve a term of two years. As of the 1999 election and thereafter, three Council members would be elected for four year terms every two years. The Mayor's term of office would remain two years.

Vice-Mayor Peterson agreed that the issue should be placed on the ballot for the voters to decide, however, he favored a two year term.

Upon inquiry of Councilwoman Field, City Attorney Slawter said that the issue of limiting the number of terms for City Council is not being considered at this time. Vice-Mayor Peterson noted that he had made a motion at one time regarding the term limits of Council, however, the motion was defeated.

Councilwoman Field had no problem in putting this issue on the ballot in November but felt that a two year term is reasonable and adequate.

Mayor Martin felt a four year staggered term was important to ensure that there will always be continuity on the Council. He didn't feel that a four year term is unusual at all in North Carolina.

Councilman Watts spoke favorably of four year staggered terms. He noted that it takes several months for a new Councilmember to become accustomed to many complex City matters, i.e., $63 Million budget and annexations.

Councilman Swicegood felt that even though stability is needed on the Council, he favored a two year term.

Councilwoman Sitnick said that when Council first discussed this quite some time ago she felt "four year terms were a good idea for the reasons Councilman Watts referred to. You get started with certain projects and certain ideas and the time to implement them can be delayed by various things and you want to see things through and complete your work. Like with everything, there is pluses an minuses, and I guess especially for this issue there are pluses and minuses for me. The idea of having to campaign and raise money every two years is staggering. The money we spend on campaigns is staggering. I think continuity is important but I also think that fresh ideas and fresh faces is important as well. Having an election every two years creates a greater amount of scrutiny of public officials. It gives us the opportunity to speak at forums and state our case to the community. The other thing about two year versus four year, and by the way, I am thoroughly in favor of putting it on the ballot and letting the citizens have an opportunity to decide this - I think the community is sophisticated enough to do that. The other thing is, and it's an issue that I've brought up on a number of occasions to this Council. If you ask a citizen to commit his or herself to serving in this office, the amount of time is staggering, the amount of work is staggering and for a member of the community to be able to give up the time from earning a living to do this job properly is staggering. Most people in the community can't do it. So, as I have said before, not to create professional politicians but to at least offer the per capita income of a resident of Asheville, which is something like $15,000 or $17,000 a year. We're not going to make a professional politician out of anybody for that amount, but what you are doing is offering a salary that would allow the plumber or the butcher

or a working citizen to offer themselves, be it for two years, and especially for four years, to be able to work part-time at their regular job and then do this job adequately. I am in favor of putting this on the ballot. There have been a couple of issues raised to me by citizens, one of them is here today and I hope he will address the question that was raised to me. I say let the people decide."

Mr. Andy Reed questioned what happens to an open seat if Council goes to four year terms. Currently if there is an open seat on Council, the rest of Council are allowed to appoint a successor to fill out the balance of that term. He understands that it has happened once or twice over the past several years. Since the amount of time that it generally happens for is less than a year, it has not ever really presented a problem that he knew of. With the change to four year terms, it seems that a sitting Council member in the middle of a four year term will be able to run for Mayor and if that Councilman wins, then the rest of the Council gets to appoint a successor for the remaining two years of that term. First of all, a Council member who runs for Mayor and wins has a voice in the selection of his successor on the Council. Secondly, the people would feel disenfranchised by that situation because the successor Councilmember would serve a full two years on the Council until that seat is up for re-election. According to Mr. Slawter, because this is not one of the things that Council itself is authorized to address, any change in that situation has to come from a change by the State legislature. Mr. Reed suggested two possible ways to avoid that problem if the four year staggered terms are put into effect. One is to require a Council member, in the middle of a term who decides to run for Mayor, to vacate his Council seat for the balance of the two years. The problem he finds with that is that it disenfranchises the voters who elected that person to a four year term because if he doesn't win the Mayoral election he still loses his seat. The other possibility is to allow that Council member to retain his seat while running for Mayor and have the replacement, if he should win, have the balance of his term filled not by the appointment of the rest of Council but by the voters. There are two ways to do that. One is to hold a special election a few months later to fill the two year balance of that term. The drawback to that is that it would cost approximately $30,000, according to the Board of Elections, and special elections have even lower turnout than primary elections, general elections, and school board elections. Another possibility is that the legislature be asked to change the law to allow for this - that if a sitting Councilmember in the middle of a four year term runs for Mayor, if he loses, he can keep his seat for the next two years. If he wins the Mayoral election, then instead of having a special election, whoever comes in fourth among the field of candidates running for the four year terms in that year gets the two year term. The first three winners in the Council race would get the four year terms that are open and if the Councilman wins, the fourth place finisher would get the two year term. This would have to be presented to the legislature and would require legislative change. This would keep the voters from feeling disenfranchised if their Council member had to give up a seat in order to run for Mayor.

At the request of Mayor Martin, City Attorney Slawter said that Asheville, by Charter, fills vacancies on the Council by the other Council members voting to fill that vacancy. That is the most common method, but he would be happy to survey other cities to see how other cities do handle that. He did not recall seeing any provision like that in any of the City Charters that he has reviewed during the times they looked into how to make these changes that are before the Council. He noted that the point raised by Mr. Reed is not something that the

Council has control over. Although Council can make changes with regard to certain provisions of the Charter, including going to four year staggered terms, they cannot make the Charter changes that Mr. Reed has suggested. The Council can't dictate how that seat will be filled if somebody resigns, dies or is elected Mayor. That is all done by the legislature. If you want to address any of these points, Council would have to request special legislation from the local delegation to the legislature asking that it be done however Council would like for it to be done. If the legislature will adopt a bill authorizing it, it can be done in either of the ways suggested by Mr. Reed.

Councilwoman Sitnick spoke in favor of looking into the issue of replacing by election rather than replacing by appointment. Not that she would want to spend more of the taxpayers money for another election, but it is the democratic way and it is the way everybody else on Council would have been seated. "Certainly not with this wonderful Council, but you never know with others, there may be an opportunity to chose a buddy or somebody one owed a favor to and not necessarily find the best person for the job." She asked for more information on replacement by election rather than appointment by the Council.

Mayor Martin noted that in 1988 when Walt Boland resigned in the middle of his term. He was replaced by Bob York who was not re-elected the next time. But, it had to be with the approval of Council and they searched long and hard before they came up with Mr. York's name.

Councilman Watts noted that it also happened back in the early 1980's when Rev. H. C. Wilkes resigned. Council replaced him with Wilhelmina Bratton.

Upon inquiry of Councilman McClure if there was a 3/3 vote between the Council on who should be the replacement, City Attorney Slawter said that Council would continue to serve with six people until they found someone acceptable to the majority of Council. The replacement requires a simple majority vote.

Mr. Philip Smith was concerned that it would take a new Councilmember several months to know about what's happening in our City and what needs to be done. He felt a new Councilmember should already know what needs to be done before taking office - that being on Council is not on-the-job training. He was also concerned that a four year time span would be great if we could elect some honest and trustworthy politicians on City Council. However, spoke against the four year staggered terms. He hasn't seen anything that Asheville has truly done that has been positive in the total community, especially in the African-American community.

Councilman Watts defended his statement about how long it takes a Councilmember to become familiar with his position. He said that a member has to learn how to deal with and get some education on the many complex issues in City government. A person cannot just walk in and make arbitrary decisions.

Mr. H. K. Edgerton stressed that the lack of citizen participation by citizens in enforcing the decisions of Council.

Mayor Martin closed the public hearing at 5:47 p.m.

Mayor Martin said the adoption of the ordinance amending the Charter and Related Laws will be considered on September 12, 1995.

B. PUBLIC HEARING RELATIVE TO A VARIANCE REQUEST FROM BILTMORE AREA DEVELOPMENT COMPANY TO PERMIT A REDUCTION IN RIGHT-OF-WAY WIDTH FROM 50 FEET TO 40 FEET AT STONEBRIDGE SUBDIVISION LOCATED AT THE INTERSECTION OF OLD HAW CREEK ROAD AND MIDDLEBROOK ROAD

Mayor Martin opened the public hearing at 5:47 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transportation Planner, said that Biltmore Area Development Company, developer of Stonebridge Subdivision, is requesting a variance to permit a reduction in the subdivision's street right-of-way width from the required 50 feet to 40 feet. The preliminary plat for the 68 lot subdivision, located on Old Haw Creek Road near its intersection with Middlebrook Road, was approved by the Planning and Zoning Commission on February 15, 1995. The request for the street right-of-way reduction is based upon the topography of the site. Grading currently underway to develop the site will require that many of the proposed homes be located at the toe of the slope if the 50 foot street right-of-way is maintained. With a 40 foot right-of-way, an area for drainage and building maintenance will be provided at the rear of each home. The design of the proposed street will not change if the right-of-way is reduced. The streets will be built to city standards with curb and gutter and there will be adequate room in the right-of-way for utilities.

The request for a variance from the city's street right-of-way requirements was heard by the Planning and Zoning Commission at their August 2, 1995, meeting. After hearing the request, the Commission unanimously voted to recommend approval of the variance to permit a reduction in the street right-of-way width from 50 feet to 40 feet.

Councilwoman Field was concerned that this 68 unit subdivision has a cul-de-sac which entrance/exit is on one feeder street. She felt cul-de-sacs do not encourage a pedestrian environment.

Mr. George Jensen, engineer for the project, said that cul-de-sacs are a way to provide frontage on a corner piece of property. He stated that people like to live in a cul-de-sac because it is a quiet area, has no through traffic, and the street area is a good place for children to pay.

When Councilwoman Sitnick asked if the cul-de-sac was wide enough for a fire truck to turn around, Mr. Jensen said that there is more than adequate room. He stressed that the street width will not change, only the right-of-way width on the grassy areas.

Mayor Martin closed the public hearing at 5:56 p.m.

Vice-Mayor Peterson moved to approve the variance to permit a reduction in the street right-of-way width from 50 feet to 40 feet for the streets in the Stonebridge Subdivision. This motion was seconded by Councilman McClure and carried unanimously.

C. PUBLIC HEARING TO CONSIDER ASSISTING IN THE EXTENSION OF A SEWER LINE TO SERVE THE EXPANSION OF A PRIVATELY-OWNED INDUSTRIAL FACILITY KNOWN AS CARE-FREE WINDOWS, KINCO DIVISION, LOCATED AT 150 WESTSIDE DRIVE

RESOLUTION NO. 95-121 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO AN AGREEMENT WITH CARE-FREE WINDOWS, KINCO DIVISION, TO PARTICIPATE IN SEWER LINE IMPROVEMENTS

Mayor Martin opened the public hearing at 5:56 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning & Development Director, said that Care-Free Windows, Kinco Division, (manufacturer of vinyl windows and doors) is looking to significantly expand the production capacity of their Buncombe County plant over the next three years. In order to carry out this expansion, a sanitary sewer system connection is needed as the present septic system at the plant will not allow for employment growth. The sewer line within the city limits from which any sewer extension to that area would come is undersized and in poor condition at present. This agreement will improve the sewer line within the corporate limits. In addition, the Mayor will need to sign an agreement concerning City participation in upgrading the existing sewer line. This agreement would contain criteria and requirements which must be met by Care-Free including annexation of the Care-Free Windows property (by petition) into the City. Care-Free Windows, Kinco Division, would agree to petition for annexation into the City should the City agree to make this public improvement.

Council may decide to fund up to one half (MSD will fund half) of the upgrading of the existing sanitary sewer line within the existing City limits which is necessary to bring about an extension of sewer service to Westside Industrial Park. It is recommended that Council's funding be limited to no more than $127,445, and a budget ordinance amendment will be necessary to appropriate the funding. The extension outside the City limits will be paid for by other parties.

Upon inquiry of Councilman Swicegood, Ms. Cogburn said that the line will go up into the industrial park so the upgrade will open up that entire area to sewer service. The upgrade will improve service all along the existing sewer line. Councilman Swicegood then suggested that the area businesses be contacted to inform them of this project.

Mayor Martin asked the City Attorney to compare this project with a case recently in Winston-Salem, N.C. City Attorney Slawter said that the Superior Court Judge in Winston-Salem held unconstitutional a relatively new State statute that authorizes economic incentives to be provided by local governments to industrial developers in order to entice them to the area or keep them in the area once they are there. The statute in question is fairly broad and authorizes expenditure of public funds for the improvement of private property and it authorizes, at least in some counties in the State, the sale of property to private developers without going through the normal upset bid process that the cities and counties normally have to follow. The incentives that were provided by Winston-Salem in the case that was challenged took full advantage of the authority of that legislation and went far beyond what Asheville is talking about doing here. The only reason we ever talked about this economic development policy statute is because once the State statute was passed which authorizes these types of incentives, the Council enacted an economic development policy to set up a procedure to be followed when Council is going to become involved in economic development matters, such as this. This public hearing was scheduled to comply with a procedure in our economic development policy. Ordinarily

a public hearing would not need to be scheduled to put in a sewer line. All that is being considered by Asheville in this project is the public expenditure of funds for public improvements that will not only benefit this industrial facility, but also other property owners of the City and will lead to the opening up of a basin on the fringe of the City for additional tie-ins to the sewer line. The expenditure of public funds for putting in water and sewer lines is a long recognized public expenditure that the City has authority to engage in apart from the economic development policy. There is really no true comparison of this case to the Winston-Salem case.

Councilwoman Sitnick asked what our economic development policy's language is on wage levels to be provided by the companies that the City helps. City Attorney Slawter said that our policy reads "special consideration will be given to engaging in economic development activities where the manufacturing and non-manufacturing companies that pay employees at least the average North Carolina weekly manufacturing rate plus 10%." He said the North Carolina rate plus 10% for the year 1995 is $593.03 weekly or approximately $14.75 an hour.

Councilwoman Sitnick also "commended this Council for developing the economic development policy that we did which keeps a tighter control and more accountability on the money that we give to companies and businesses in order to have them expand or locate here. I would have a major problem giving public funds, as they did in Winston-Salem. But that's not what we do here. We only give public funds for infrastructure improvements so that a company can expand or locate. But, according to the material that we have, this company is going to be paying a salary range of $6.00 to $10.00 an hour, depending on the skill, level of positions filled. What they did in Winston-Salem, I would call corporate bribery rather than incentive. I think the most thing a municipality can do for proper economic growth is to provide infrastructure and that includes all infrastructure, including schools, housing, and all of the other things that allow things to flush and flow. I think the other a municipality can do is to make sure the business that already exists in your community is happy and attended to and has it's needs met. Another thing you can do is to make sure that you do a lot of PR, if you've got a happy business community then other businesses will want to locate within your community. I've got a little problem with the wage level as set here in being in conflict with what is in our economic development policy, which I think is an excellent one that this Council adopted. We were very specific on where we were going to spend our money. $127,000 is quite a bit and I know that there is a pay-back schedule and I know that they will annex voluntarily, but I've got a problem with the wage schedule."

Mayor Martin noted that with regard to the wage schedule, our policy says "special consideration" - it doesn't exclude "any consideration" for those who do not meet that criteria. Even though the City would be most eager to have jobs that are 10% above, to withhold infrastructure improvements just because the company's wage schedule is not as high as we would like for it to be, would be a mistake.

Vice-Mayor Peterson spoke in favor of this project. The City will be spending $127,445 for infrastructure improvements and in return the company will annex, they will be spending $3.4 Million in construction and equipment, and they will be employing 250 people by December 31, 1999. He, too, was concerned about the $6-10.00 wage schedule, but hopefully those figures will increase by 1999. He feels there are a number of safeguards in the agreement to protect the City should the corporation fail to meet the schedule in the contract.

Councilman McClure said that this is a needed upgrade for the whole area, not only for Kinco. He said that since this is an existing industrial park, not only will we be giving jobs to Kinco, but also potential future jobs in the other businesses in that industrial park. He said the average mean income in Buncombe County is $17,400, which is below the State average. If you take the $10.00/hour wage, that puts this income at $20,800 - plus benefits, which is an additional 33%, the job value would be roughly $26-27,000. Even going to the lower end wage of $6.00/hour, it puts us at about what an average income is in the County. This is not only a decision about the current Kinco situation, it's also about a decision for the future industrial growth in that area.

Councilwoman Field was pleased about this because we are bringing some industrial land into our City, through their voluntary annexation. Industrial land in Asheville is very low. We are also putting dollars into the local community and investing in existing small businesses - not small by Asheville's standards, but small by Federal standards.

Councilwoman Sitnick was concerned that we do have a policy that this Council adopted that considered higher salaries than these. However, she had no problem in supporting this especially since it involves voluntary annexation and especially because the system needed to be upgraded and will benefit others. "I feel that when we're giving $127,000 for a good cause, as this is, it's incumbent upon us to ask the questions, the reason is that we have so much money that we can direct for infrastructure improvements for economic growth. And we need to make sure that we are directly those monies as best and as effectively as we can."

When Councilwoman Sitnick asked how many employees Kinco presently has out there, Mr. Mike Eisenlohn, representative of Care-Free Windows, replied that they presently employ 108 people.

Upon inquiry of Mr. Andy Reed, Mr. Eisenlohn said that Kinco's benefits to it's employees include health insurance, a short and long term disability plan and life insurance.

Mr. Ray Burrows, Industrial Specialist for the Department of Commerce in Asheville, said that there aren't too many opportunities for cities to help businesses like this. He has enjoyed working with the City on this very complex matter. He said the CDBG program that will be used for the extension requires that 60% of the people hired will be low and moderate income. He felt that with programs like this, the salary averages will rise.

Councilwoman Field clarified that the City's participation is not coming from Asheville's CDBG funds.

Vice-Mayor Peterson hoped that minorities are considered for these industry jobs. Mr. Burrows said that all industries have an equal employment policy and hiring low and moderate income residents should show some increase in that area.

Mr. George Jensen felt this was a very good program.

Mayor Martin closed the public hearing at 6:26 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilman McClure moved to adopt Resolution No. 95-121. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 347

D. **PUBLIC HEARING RELATIVE TO REZONING THAT PORTION OF THE LOT LOCATED AT THE END OF GRANADA STREET FROM R-3 RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT**

ORDINANCE NO. 2230 - ORDINANCE TO REZONE THAT PORTION OF THE LOT LOCATED AT THE END OF GRANADA STREET FROM R-3 RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

Mayor Martin opened the public hearing at 6:26 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that the portion of the lot requesting to be rezoned is 7500 square feet. The lot is at the end of Granada Street, but the access to the entire lot will be from Amboy Road. The subject property is currently vacant. The subject property is surrounded by R-3 Medium Density Residential and abuts LI Light Industrial on the east side.

At the Planning & Zoning Commission on August 2, 1995, the Commission voted unanimously to rezone the remaining portion to LI Light Industrial District. The Planning staff reviewed and recommend approval also.

Mayor Martin closed the public hearing at 6:29 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2230. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2230 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 195

E. **PUBLIC HEARING RELATIVE TO REZONING TWO LOTS AT 5 AND 7 JEFFRESS AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT**

ORDINANCE NO. 2231 - ORDINANCE TO REZONE TWO LOTS AT 5 AND 7 JEFFRESS AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Martin opened the public hearing at 6:30 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that Asheville Savings Bank has petitioned for rezoning of two lots that it owns located on Jeffress Avenue from R-3 Residential District to CH Commercial Highway District. These lots are adjacent to the former located of the bank at 720 Hendersonville Road.

At the public hearing held on August 2, 1995, by the Planning and Zoning Commission ("Commission") no comments were received.

In accordance with the Hendersonville Road Corridor Plan, both the Planning staff and the Commission recommended that lot 9674-20-82-9474 be rezoned as requested, while lot 9647-20-92-0447 remain zoned R-3 Residential District.

Upon inquiry of Vice-Mayor Peterson, Ms. Julia Cogburn, Planning & Development Director, said that the buffering ordinance would need to be complied with, but how much would depend on the size of the lot rezoned.

Mayor Martin closed the public hearing at 6:35 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2231, to rezone PIN No. 9674-20-82-9474 to CH Commercial Highway (and leave PIN No. 9647-20-92-0447 remained zoned R-3 Residential District). This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2231 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 197

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

At 6:42 p.m., Mayor Martin announced a five minute break.

A. RESOLUTION NO. 95-122 - RESOLUTION APPROVING THE GENERAL CONCURRENCE POINTS FOR THE ASHEVILLE URBAN AREA PHASE I ENVIRONMENTAL ANALYSIS

Mr. Ron Fuller, Transportation Planner, said that NC Department of Transportation (NC DOT), in conjunction with the local Metropolitan Planning Organization (MPO) have been working on a new approach to the planning, public input and selection of transportation improvements. NC DOT has requested that each of the participating member of the MPO review the document and, hopefully, concur with the findings by resolution.

The three main goals of this new planning process are (1) to place more of the public input up front rather than after a corridor or improvement has been selected, (2) involve the various local, state and federal agencies charged with reviewing plans earlier than in the past, and (3) identify corridors that need to be protected from encroaching development. The document identifies five problem areas within the Asheville Urban Area and offers preferred alternatives for each. The five areas are (1) Smokey Park Bridge/Patton Avenue Area and Northwest Connector, (2) Central Business District, (3) Biltmore Village Area, (4) Merrimon Avenue Area, and (5) US 25 in Fletcher. The only corridors upon which concurrence is being requested are (1), (3) and (5) since these involve new locations of improvements.

This analysis is an initial environmental screening of alternative alignments to thoroughfare plan improvements. The result is the

selection of preferred corridors for each problem area. Once the project becomes programmed for funding, more detailed documentation will be completed according to National Environmental Policy Act of 1969 (NEPA) guidelines in the Phase II Environmental Analysis: Project Planning. It is also at this stage that decisions regarding mitigation, if necessary, will be made. Both the additional documentation and the mitigation decisions will be conducted on the preferred corridor.

Councilwoman Field, member on the Transportation Advisory Committee ("TAC"), commended the people who worked on these plans for trying to make them have minimal effect on the least number of people, housing, etc. These have been approved by the TAC and she recommended Council's approval to ensure these areas for preservation in the future for right-of-way needs.

Councilwoman Sitnick said that she had no problem with the Biltmore Village area and the US 25 in Fletcher area, however, I have some questions about the Smokey Park Bridge/Patton Avenue Area and Northwest Connector. "As you know I was at the TAC meeting and I thought there were a lot of important points brought up and I noticed that one of the main goals of this new planning process is to place more of the public input up front rather than after a corridor or an improvement has been selected. I commend that new policy. It's not just putting public input up front, although that is crucial. It's also about listening to the public and valuing their input as a resource, rather than just allowing them to speak and then hoping they'll go away. I certainly commend that new direction. I also know that at that meeting there were a number of excellent questions asked about problem area (1), Alternative (a). I know the Smokey Park Bridge has been impacted by traffic, but there are, I don't know how many millions of dollars are being spent to direct people to the west of it and then to widen I-240. I-240, I don't know how old that road is, it's not been that long. We are either the only, or one of the few cities of our size, that have an interstate traversing through our downtown. A lot of the people who were at that meeting had great concerns about not widening Broadway, not improving Broadway, but widening Broadway to 74 feet. And that has always been the opposition. I don't know anybody who has opposed the widening of Broadway who has opposed the widening of Broadway period. They have only opposed widening Broadway to 10 feet wider than the Hendersonville Road Corridor. Basically a five lane expressway, and one of my main concerns about that project, is the fact that eventually, that Blake Norwood from the DOT said himself, the funneling from that road is going to become a problem for the City taxpayer, to accommodate the County's travel convenience, out of state travel convenience, etc. And so, as a representative of the taxpayers of Asheville, it's my duty to find out how are we going to accommodate that road when it funnels into Lexington. Be that as it may, there's no doubt the intersection needs work, and again, that was a DOT plan and it's not that old. The intersection's only been there a few years. Will the widening of I-240 need to be done again in a few years? Will Connector A be sufficient? I've just got a problem with that whole area. What are we spending on it? $35, $45 Million, $100 Million? To rush people through our community. Congressman Taylor made a very good point a couple of months ago when he addressed the Western North Carolina Regional Economic Development Commission when he said what we ought to be doing for economic growth is create points of destination in our community where people meander through a community and stop and shop and slow down and spend their money. I don't see that these kinds of major highways that we are circumventing, transecting our community with, are necessarily good for the economy and we're beginning to look like just another hilly city. We're beginning to look like so many of

the metropolitan areas that people are leaving to come here for. So, while I think that road improvements are fine and getting trucks around Biltmore Village so that they can access their point of destination better is important. But I have a real problem with problem area 1."

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 95-122. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Councilwoman Sitnick voting "no".

RESOLUTION BOOK NO. 22 - PAGE 349

B. RESOLUTION NO. 94-123 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE TOWN OF BILTMORE FOREST FOR DELIVERY OF FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES TO THE TOWN OF BILTMORE FOREST

Fire Chief John Rukavina said that during the summer of 1994, the City of Asheville submitted a proposal to the Town of Biltmore Forest for delivery of fire protection and emergency medical services to the Town by the Asheville Fire Department. At that time, the Town chose not to pursue this offer. But in April of 1995, Town representatives asked that the City review the possibility of such a fire protection/emergency medical service agreement.

The agreement provides for delivery of fire protection and emergency medical service delivery to Biltmore Forest by Asheville "to the same extent and in the same manner as the City provides such fire and emergency medical services" to persons and property in the City. In return, Biltmore Forest agrees to reimburse Asheville in the amount of $245,247.31 for the service period September 1, 1995, through August 31, 1996. In subsequent service periods, that reimbursement would increase by the estimated annual increase in real and personal property valuation in Biltmore Forest, but never less than $250,000 per service period.

The agreement would be for a term through August 31, 2008. This term includes a three year notice period for Biltmore Forest to re-establish its own fire protection EMS capabilities, should either Biltmore Forest or Asheville choose not to maintain or renew the agreement.

If they choose, Biltmore Forest's five present firefighters could join the Asheville Fire Department, subject to personnel and Civil Service provisions of Asheville's Code of Ordinances, Personnel Policy and Civil Service rules. These firefighters could fill five present vacancies; execution of this agreement would not require an expansion of the Asheville Fire Department's firefighting forces.

The City would assume responsibility for service delivery, including minimum staffing at Station 5 (Hendersonville Road and Caribou Road, the station that would be the primary responder for Biltmore Forest emergencies), firefighter training, fire response and maintenance of Asheville's present ISO rating.

Biltmore Forest would retain responsibility for fire protection water supplies, water system maintenance, provision of accurate maps to City firefighters and notice of new construction in Biltmore Forest to enable Asheville firefighters to "pre-plan" emergency actions at such new structures.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 95-123. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 351

C. ORDINANCE NO. 2232 - BUDGET AMENDMENT REGARDING CITY'S PARTICIPATION IN EXPANSION PROJECT OF CARE-FREE WINDOWS, KINCO DIVISION

Ms. Julia Cogburn, Planning & Development Director, said that this budget amendment, in the amount of $127,445, is for City' participation of the sewer line upgrade to facilitate the industrial expansion of Care-Free Windows Inc., Kinco Division.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2232. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2232 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 199

V. CONSENT:

At the request of Councilman McClure, the resolution approving underwriters for the issuance of water revenue bonds was pulled off the Consent Agenda for discussion.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 8, 1995, AND THE WORKSESSION HELD ON AUGUST 15, 1995

B. RESOLUTION NO. 95-124 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH DAVID M. GRIFFITH & ASSOCIATES LTD. TO CONDUCT A CITY-WIDE CLASSIFICATION STUDY

Summary: The City's classification plan is six years old. Given the numerous reorganizations, reductions in staff and increases/changes in City services over the past several years, a significant portion of the City's workforce is misclassified. This is causing management and employee morale problems. There are also legal risks if the plan is not updated; specifically that the City may not be in compliance with the Equal Pay Act, Fair Labor Standards Act and the Americans with Disabilities Act.

A request for proposals to conduct a comprehensive City-wide pay and classification study was sent out in late 1994. After reviewing the proposals received, staff recommended that an agreement be executed between the City and David M. Griffith & Associates Ltd ("DMG") to conduct a comprehensive City-wide pay and classification study. At that time, staff negotiated with DMG to conduct the study at a reduced cost by utilizing a committee of City employees to help conduct interviews. Funding was not available and the study was not approved.

Funding for a City-wide classification study is included in the Fiscal Year 1995-96 budget. To reduce costs the pay study will be done by Personnel staff. DMG is agreeable to conduct the classification study using the employee committee at its 1994 price.

RESOLUTION BOOK NO. 22 - PAGE 352

C. MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 12, 1995, TO REZONE 46 BAIRD STREET FROM R-3 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT

D. RESOLUTION NO. 95-125 - RESOLUTION OF INTENT TO CLOSE AN ALLEY OFF LODGE STREET AT McDOWELL STREET AND SETTING A PUBLIC HEARING ON SEPTEMBER 26, 1995

RESOLUTION BOOK NO. 22 - PAGE 353

E. RESOLUTION NO. 95-125 - RESOLUTION APPOINTING MEMBERS TO THE MINORITY BUSINESS COMMISSION

Summary: This resolution will reappoint Laura Todd to serve as the representative of the American Institute of Architects for a three year term, term to expire August 1, 1998; appoint Barbara Biddix to serve as the representative of the Asheville Area Chamber of Commerce for a three year term, term to expire August 1, 1998; appoint Bonnie Habel to serve as the representative of the Asheville-Buncombe Community Relations Council for a two year term, term to expire August 1, 1997; reappoint Ronald Blythe as the representative of the Asheville Business Development Center to serve a two year term, term to expire August 1, 1997; appoint Thomas Alexander as the representative of the Associated General Contractors of America, to serve a three year term, term to expire August 1, 1998; appoint Sharon Arrington as the representative of the Black Business and Professional League to serve a three year term, term to expire August 1, 1998; appoint Gene Presley as the representative of the Council of Independent Business Owners to serve a three year term, term to expire August 1, 1998; appoint Lynn Staton as the representative of the National Association of Women in Construction to serve a three year term, term to expire August 1, 1998; and appoint Robbie Williams as representative of the YMI Cultural Center to serve a two year term, term to expire August 1, 1997. All terms are until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 355

F. RESOLUTION NO. 95-127 - RESOLUTION REAPPOINTING A MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY

Summary: This resolution will reappoint Loyd Kirk as a member of the Tourism Development Authority to serve an additional three year term, term to expire August 30, 1998, or until his successor has been appointed.

RESOLUTION BOOK NO. 22 - PAGE 356

G. RESOLUTION NO. 95-128 - RESOLUTION ESTABLISHING TERMS AND APPOINTING MEMBERS TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE

Summary: This resolution will appoint Herbert J. Watts, Francis Black, Margie T. Liverman, Steven Blanco and Glenda McDowell. Each member shall serve a term of two years; provided, however, that three

(3) members of the Committee shall be initially appointed to three (3) year terms so as to prevent the expiration of all terms on the same date each two (2) years. After the expiration of the initial terms appointed hereunder, members of the Committee shall all be appointed to two (2) year terms or until their successors have been appointed.

RESOLUTION BOOK NO. 22 - PAGE 357

H. RESOLUTION NO. 95-129 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Summary: This resolution will appoint Adina Goodwin to the Asheville Tree/Greenway Commission. Her term will expire August 1, 1998, or until her successor is appointed.

RESOLUTION BOOK NO. 22 - PAGE 358

I. RESOLUTION NO. 95-130 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: This resolution will appoint Brian Peterson to the Asheville-Buncombe Historic Resources Commission. His term will expire July 1, 1998, or until his successor is appointed.

RESOLUTION BOOK NO. 22 - PAGE 359

J. RESOLUTION NO. 95-131 - RESOLUTION APPOINTING A MEMBER TO THE RECREATION BOARD

Summary: Wanda Hawthorne has expired as a member of the Recreation Board. This resolution will appoint Thomas McMahon to serve the unexpired term of Ms. Hawthorne. His term will expire on June 30, 1997, or until his successor has been appointed.

RESOLUTION BOOK NO. 22 - PAGE 360

Councilwoman Field moved for the adoption of the Resolutions and Motions Consent Agenda. This motion was seconded by Councilwoman Leni and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2233 - ORDINANCE AMENDING THE MINIMUM HOUSING CODE TO (1) COMPLY WITH THE STATE LAW REGARDING SMOKE DETECTORS IN RENTAL PROPERTY; (2) AUTHORITY TO ADOPT AN ORDINANCE PROVIDING FOR A 30-DAY DEMOLITION PERIOD FOR DILAPIDATED HOUSES MEETING CERTAIN CRITERIA; AND (3) CLARIFICATION OF RESPONSIBILITY OF THE OWNER OF A CONDOMINIUM-TYPE DWELLING

Summary: During the 1995 session of the General Assembly, two laws were passed that require amendment of Asheville's Minimum Housing Code.

The first, N. C. General Statute sec. 143-138 contains provisions for smoke detectors in rental property that are different from the smoke detector provisions of the Minimum Housing Code. Amendment of the Minimum Housing Code is required, so that rental property owners aren't asked to comply with two different standards.

The second, N. C. General Statute Chapter 113, provides authorization for the City to adopt an ordinance providing for a 30-day demolition period for dilapidated houses meeting certain criteria. This authority was requested of the Buncombe County legislative delegation by the City Council as part of its 1995 legislative request package.

Finally, questions have been raised about the responsibility of the owner of a condominium-type dwelling for Minimum Housing Code violations in that part of the dwelling owned by a homeowner's association. The Minimum Housing Code is not clear with regard to this issue; an amendment is recommended to clarify responsibility.

ORDINANCE BOOK NO. 15 - PAGE 201

Councilwoman Sitnick moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and final reading.

ITEM PULLED OFF CONSENT AGENDA FOR DISCUSSION

A. RESOLUTION NO. 95-132 - RESOLUTION APPROVING UNDERWRITERS FOR THE ISSUANCE OF WATER REVENUE BONDS

Mr. Larry Fisher, Finance Director, said that at the Council's annual retreat on January 14 and 15, 1995, Council approved the issuance of Water Revenue Bonds to construct new water intake facilities on the Mills River.

Mr. George A. Raftelis of Raftelis Environmental Consulting Group, Inc., has already been engaged by the Water Authority to provide the Financial Feasibility Study that will be required in order to market these bonds. At Council's worksession on March 28, 1995, Council authorized the engagement of Mr. Donald P. Ubell, Esquire, for municipal bond counsel services related to this sale. At that time, it was reported that this sale will also require the engagement of underwriters. At that meeting Council authorized selection of underwriters utilizing a request for proposal process. That process has been completed. The purpose of this report is to recommend to Council as underwriters the firms that ranked highest in the selection process.

The RFP was mailed to 16 firms, 14 responded. All responses were reviewed independently by Mr. Raftelis, Mr. Ubell and Mr. Larry Fisher. Each of these evaluators selected, independently, the same seven firms for a "short list" of oral interview candidates. Oral interviews were conducted with representatives of each of the seven firms in Charlotte, N.C., on July 17, 1995. Mr. Raftelis, Mr. William Schaefer, the City's Capital Projects Coordinator, and Mr. Larry Fisher, conducted and evaluated the oral presentations (Mr. Ubell did not participate in the oral interviews because he did business with them all). Pre-prepared evaluation forms containing evaluation criteria were used by each evaluator. The consensus recommendation of all three evaluators, with concurrence of the municipal bond counsel, is: Alex. Brown & Sons Inc., NationsBank Capital Markets Inc., The Robinson-Humphrey Company Inc.

There was a lot of discussion regarding the recommendation by the evaluators of Alex. Brown & Sons Inc. being designated as the senior manager. Mr. Fisher went into detail of how each firm was selected and their fee structures.

Councilman McClure felt that after reviewing the all information, The Robinson-Humphrey Company Inc. should be designated as the senior manager because it had no management fee and records show that they have managed more transactions in North Carolina than Alex. Brown & Sons Inc.

Mr. Fisher stated that the consensus recommendation was what he felt was best for the City of Asheville.

It was determined that there was no problem with the three companies, only concerns with who would be the senior manager. Thus, in an effort to sell the bonds in November, a decision would have to be made today to approve the underwriters.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 95-132, noting that the senior manager would be Alex. Brown & Sons, Inc., with instructions to provide Council with additional information for future reference. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Councilman McClure voting "no".

City Manager Westbrook stated that the water fund revenue would be paying for these fees, which money is generated from water fees.

Councilwoman Sitnick then moved to reconsider Councilman Swicegood's motion. This motion was seconded by Vice-Mayor Peterson and carried on a 5-2 vote, with Mayor Martin and Councilwoman Field voting "no".

Councilman Swicegood then moved for the adoption of Resolution No. 95-132, approving the three underwriters; however, the senior manager is yet to be determined. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

It was the consensus of Council for Mr. Fisher to meet with them individually, explain the evaluators' recommended consensus and get a consensus on who would be the senior manager for the issuance of the water revenue bonds.

RESOLUTION BOOK NO. 22 - PAGE 361

VI. OTHER BUSINESS:

A. FUTURE WORKSESSION ITEMS; METROPOLITAN SEWERAGE DISTRICT TRIP

Councilwoman Sitnick asked that time be set aside at the next agenda for open discussion of her list of worksession items.

Councilwoman Sitnick called Councilmembers attention to a trip being considered by MSD board members and staff to Miami, Florida. She suggested it be determined what the cost of the trip would be. Councilwoman Field said that she was Council's liaison to the MSD Board and would find out the details of the trip.

B. CLAIMS

The following claims were received by the City of Asheville during the week of August 3-9, 1995: Matthew Davis (Streets), Mary Julian (Sanitation), Daisy White (Sanitation), John Elkin (Streets), and Deloris Smith (Water).

The following claims were received by the City of Asheville during the week of August 10-16, 1995: Fae VanArsdale (Streets), Vicki Sharpe (Water), Bell South (Water) and Marc H. Nishino (Parks & Recreation).

These claims were referred to Asheville Claims Corporation for investigation.

C. LAWSUIT

The following lawsuit was received by the City of Asheville on August 22, 1995: Matter - County of Buncombe v. Heirs of James Frank Talford (Tedford), et al., Nature of Proceeding - tax foreclosure.

This has been referred to the appropriate legal counsel for action.

D. CLOSED SESSION

At 8:10 p.m., Councilwoman Field moved to go into closed session to hear a report concerning investigation of alleged criminal misconduct, as authorized by N. C. General Statute sec. 143-318.11 (a) (7). This motion was seconded by Vice-Mayor Peterson and carried unanimously.

At 9:20 p.m, Councilwoman Field moved to come out of closed session. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 9:20 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - September 5, 1995 - 1:00 p.m.
Room 623 - City Hall Building

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood (arrived at 2:20 p.m.) and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CLOSED SESSION

At 1:10 p.m., Councilman McClure moved to go into closed session (1) to consider a grievance by an individual City employee as authorized by G.S. 143-318.11 (a) (6), and (2) to consult with the City Attorney on matters for which the attorney-client privilege must be preserved, including a lawsuit involving the NC DOT against the City as authorized by G.S. 154-318.11 (a) (3). This motion was seconded by Councilwoman Sitnick and carried unanimously.

At 1:50 p.m., Councilman McClure moved to come out of closed session. This motion was seconded by Councilwoman Sitnick and carried unanimously.

AIRPORT PARKING REQUEST

Mr. Carl Hyldburg, Chairman of the Asheville Regional Airport Authority, and Mr. Jim Parker, Airport Director, summarized the reasons for their request for inclusion of additional real property as part of the leased premises in the lease between the City and the Airport Authority. Their request was for a portion of the real property designated as Area 1 to be used for the renovation and expansion of the Airport's maintenance facility; all or a portion of the real property designated as Area 2 in order to provide for the future development of an entranceway into the Airport for those motorists traveling from the south to the north on Airport Road; and the real property designated as Area 3 for the construction in the future of a second runway and the associated runway protection zone.

They explained that the inclusion of these 3 areas as part of the leased premises will protect the current and future integrity of the Airport and ensure that all development will preserve and enhance the efficiency, operation and appearance of the Airport and will be consistent with the Authority's aviation mission.

Upon inquiry of Mayor Martin, City Attorney Slawter said that the City would need the FAA's permission to release any property on the Airport side of the road and they have given the indication that they will not give that permission for sale or a long-term lease of any property (including the Exxon property).

There was some discussion regarding the parking areas.

At 2:20 p.m., Councilman Swicegood arrived at the meeting.

Councilwoman Sitnick moved to instruct staff to draft a resolution to amend the lease between the City and the Airport Authority to include Area 1. This motion was seconded by Councilman Watts.

Mr. Hyldburg said that if the City included Area 3 in their lease, it would give an indication to the FAA that they are seriously considering construction of a second runway in the future, subject to funding and land acquisition.

It was the consensus of Council that the Airport is crucial to economic development.

Councilwoman Sitnick amended her motion to instruct staff to draft a resolution to amend the lease between the City and the Airport Authority to include Areas 1 and 3, subject to any existing leases. Councilman Watts accepted her amendment. This motion carried unanimously.

Mayor Martin said that City Council will consider the Airport Authority's request for Area 2 at a later time.

REPORT ON RFP'S REGARDING CITY PROPERTY SALES

Ms. Patty Joyce, Senior Planner, said that to facilitate the sale of City-owned properties and selected "tax foreclosure lots", area real estate firms were requested to submit a proposal for the marketing and selling of these public properties. The City received four proposals from real estate firms by the deadline of August 11, 1995, at 5:00 p.m.

A planning staff review committee comprised of herself, Julia Cogburn and Richard Bass reviewed and evaluated each proposal. An evaluation form was used. The following firms are ranked in order, with number one receiving the best overall evaluation:

1. Russell Wood, Beverly-Hanks & Associates
2. David Perkins, RE/Max Advantage Realty, Hendersonville Road Office
3. Chuck Tessier, Tessier Associates
4. Tom "Dixie" Neilsen, Re/Max Advantage Realty, Biltmore Avenue Office

Staff recommends contracting with one real estate firm since there is a limited number of parcels the City wishes to sell. After a contract is executed with the real estate firm, individual listings of each property will be prepared for sale. Appraisal reports for the City's four largest parcels should be received in approximately three weeks and will be reported to City Council for discussion prior to being listed.

Upon inquiry of Councilwoman Sitnick regarding a conflict of interest with any of the realtors, Ms. Joyce said that she has checked with the City Clerk and has been assured that no one with the Beverly-Hanks & Associates firm is a City appointee to any of Asheville's boards or commissions.

When Vice-Mayor Peterson inquired about the 7% commission price by RE/Max Advantage Realty, Biltmore Avenue Office, Ms. Joyce explained that even though the 7% commission was lower than the 10% commission by Beverly-Hanks & Associates, the RE/Max firm included a provision of a minimum of $500 commission on each parcel. Ms. Joyce explained that a lot of the parcels to be listed won't come close to being worth $500 and the City could really be paying a lot more than the parcel is worth.

When Mr. H.K. Edgerton asked if the general public could make offers on these parcels without going through the real estate firm, Mayor Martin said that Council would discuss that at the formal meeting.

At 2:37 p.m., Councilman McClure asked to be excused from the meeting due to a prior commitment. Vice-Mayor Peterson moved to excuse Councilman McClure. This motion was seconded by Councilman Swicegood and carried unanimously.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

BILTMORE VILLAGE REQUEST

Mr. Robert Griffin explained the status of the Biltmore Village street lights project with Council. The initial estimated costs of the cast aluminum light fixtures were $2,400 each. It was decided that Biltmore Village Merchants Association would buy the fixtures and CP&L agreed to install the street lights and maintain them. Additionally, a monthly facilities use charge of 1% for each $2,400 light fixture would be assessed by CP&L for a total per year cost of $14,400 for perpetuity (1% x 2,400 x 12 x 50 = $14,400). The City agreed to pay the 1% monthly facilities use charge plus the monthly electric bill.

Since that time CP&L has declined to install the lighting fixtures at the historic 8 foot height. The City agreed to work with the Merchants Association to allow the street lights to be metered and installed privately or by the City, thus eliminating the 1% monthly CP&L facilities use charge.

Since it was determined the historic height of 8 feet would be more appropriate, the Merchants Association has solicited new bids for the light fixtures to be made out of cast iron instead of the original cast aluminum. Using cast iron as opposed to cast aluminum means the light fixtures will be more durable and stronger. The cost of the cast iron fixtures is $3,800 each while cast aluminum costs about $2,400 each, $1,400 difference in price. To date, the Merchants Association has raised $34,200 cash dollars for the street lights and another $34,800 in pledges for the fixtures for a total of $69,000.

The City has agreed to work with the Merchants Association to allow the street lights to be metered and installed privately or by the City. If the street lights are owned by the City, and installed privately or by the City and metered, the City will not have to pay CP&L's monthly 1% facilities use charge. Approximately 50 lights will be installed in the first phase (City's portion is $70,000) with upwards of 150 lights when phase two and three of the public improvements are completed.

The Biltmore Village Merchants Association is proposing that the City share in the cost of the street light fixtures in lieu of the CP&L 1% monthly facilities use charge. The City would, in fact, save a substantial sum of money over the years with a capital outlay rather than paying the monthly facilities use charge.

The issue before the City is whether to pay a portion of the cost of the street lights up front rather than paying a monthly facilities fee in perpetuity. The initial up front cost to the City in helping to pay for the lights would be less than the monthly facilities charge over a five year period.

Upon inquiry of City Manager Westbrook about maintenance of the light fixtures after their installation, Mr. Griffin said that CP&L would handle the maintenance.

Councilwoman Field moved to instruct staff to draft a resolution of intent to enter into an agreement with Biltmore Village Merchants Association for Phase I of the Biltmore Village street lights. This motion was seconded by Councilwoman Sitnick and carried unanimously.

VA HOSPITAL CONTRACT

Fire Chief John Rukavina said that the Oteen VA Medical Center has requested renegotiation of a new fire protection agreement with the City of Asheville earlier this summer.

Oteen VA staff presented City staff representatives with information on U.S. Department of Veterans Affairs ("DVA") standards on fire protection and fire response for DVA facilities. Based on these standards, on a review of fire experience at the Oteen VA Medical Center, and on Oteen VA Medical Center's internal/on-site fire protection capabilities, a fire protection agreement has been developed that provides for a reduced Asheville Fire Department response consistent with DVA fire protection standards (one engine, one aerial ladder and one District Chief.) The proposed agreement also continues Asheville Fire Department support of fire protection and fire safety education programs at Oteen VA Medical Center.

Annual payment under this revised-service-level agreement would be $30,000. This payment amount would be consistent with the level of services provided.

If a fire were to occur at the VA Medical Center that required additional firefighting resources, the Asheville Fire Department would respond with those resources.

When Councilman Swicegood asked how many times Asheville had to respond to the VA Medical Center for services, Fire Chief Rukavina said approximately 24 times a year, and many of those are false alarms.

Upon inquiry of Councilwoman Sitnick, Fire Chief Rukavina said that the VA Medical Center has not been fined for their false alarms. They feel that one false alarm a month for a hospital is not unusual at all.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

JUNKED AUTOMOBILE AMENDMENT

Ms. Julia Cogburn, Director of Planning and Development, said that the present nuisance/abandoned/junked auto ordinance requires a complaining citizen to agree to indemnify the City against any claim when the citizen files a complaint calling for removal of a nuisance/abandoned/ junked auto from private property. This is a major impediment to effective enforcement of the City's junked auto ordinance. Planning and Development staff recommend removal of this indemnification provision from the junked auto ordinance.

Upon inquiry of Councilwoman Sitnick, Ms. Cogburn said that this ordinance did not apply to the extraterritorial jurisdiction area.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

ACQUISITION OF VACANT LOT ON MORROW STREET IN HEAD OF MONTFORD REDEVELOPMENT PROJECT

Mr. Ed Vess, Coordinator of Field Services, said that the owners of parcel 3/9/135 (a vacant lot on Morrow Street) have agreed to sell that parcel to the City of Asheville. Said amount is $1,600 which is $125 more than the established "just compensation" amount.

Nineteen unutilized vacant lots are being acquired in the Head of Montford Redevelopment Project area to be resubdivided into ten standard residential building lots. The lots will be offered for sale under the $1.00 Lot program for low and moderate income homeowners.

The offer for the subject parcel, in the amount of $1,475, was made to P. Greer Johnson by the Housing Authority. Subsequently Mr. Johnson and his wife died. The P. Greer Johnson Heirs, who now own the property, have agreed to accept $1,600, which is the amount of the tax value. Administrative settlements are permitted under HUD regulations whenever approved by the acquiring agency as being reasonable, prudent and in the public interest. Approval of this administrative settlement will expedite the acquisition process and avoid the cost of condemnation.

When Mr. H. K. Edgerton questioned if this property was located within the Head of Montford area, Ms. Cogburn replied that it was in the Head of Montford Redevelopment Project area.

In reply to Mr. Edgerton, Mayor Martin said that when the report regarding the Head of Montford Redevelopment Plan was finished, it would be made available to the public.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

At this time, 3:10 p.m., Mayor Martin announced a ten minute recess.

SERVICE CONSOLIDATION WITH BUNCOMBE COUNTY

City Manager Westbrook said that Buncombe County has just recently presented the City of Asheville with a plan for service consolidation from "Partnerships for Effective Government" as follows:

Pros:

Conversion to per capita sales tax distribution method will result in revenue increase of $1,000,000

Additional one-cent sales tax increases revenues by $4.6 Million

Elimination of City School Board and supplemental school tax will reduce tax rate by 21 cents for most City residents

Converting to a user fee for sanitation services will reduce City costs by $2,400,000

Consolidation of parks and recreation services will reduce City costs by $2,100,000 for first five years and $3,100,000 after five years

Asheville Rescue Squad expenses will be reduced by $11,200

Contracting with Buncombe County for risk management and purchasing consolidates two core functions and will increase revenues by $60,000

Contracting with Buncombe County to operate county-wide police functions will fully consolidate police services

Cons:

Loss of $1,600,000 of revenue from patrol and investigation services

Water Authority will no longer be a part of City government

Management will have to communicate with citizens and explain conversion from property tax to user fee on sanitation services.

Buncombe County says that the net effect will be a $8.6 Million decrease in City costs (25 cent decrease in City tax rate) plus an additional 21 cent decrease for supplemental school tax, for a total of 46 cent decrease for many City residents.

Plans are also outlined for the Town of Woodfin, Town of Black Mountain, Town of Weaverville, Town of Biltmore Forest, Town of Montreat, Buncombe County Schools, Asheville City Schools, and Buncombe County.

Mayor Martin said that City Council has not had the opportunity to discuss this plan amongst themselves. This came as a complete surprise to everyone and the first thing Council saw about this plan was in the media. We have no other details on this plan, other than what is outlined above. The County is proposing a one cent sales tax increase which he really doubts they will be able to get through anyway and that is the key to the proposal. Recognizing the fact that if this is a key to the success of the project, what we are really asking our surrounding neighbors is to underwrite a tax increase for the citizens of the City of Asheville and the rest of Buncombe County. He didn't think the legislature would look kindly upon that. Before directing staff to make extensive analysis to come back to Council, Council needs to know if this is a serious proposal and if the one cent is reasonable. If not, it's not necessary to take staff's time to review the proposal and come up with comments. Since only three weeks ago there was a joint City/County meeting and at that time, the County had no suggestions for consolidation, maybe the County has not studied the proposal as thoroughly in all respects.

Councilwoman Sitnick said that "any plan or any proposal about consolidation that seems to be moving in the direction of making life better and easier and more efficient and more effective for the citizens of Asheville and Buncombe County, I would fully support and I would doubt that anybody on this Council would not support. We'd all be in favor of that. But the issue here is not the plan of consolidation. The issue here is a matter of honor. This City Council, for years, has been proposing to the County aspects of this very kind of consolidation opportunity. This Council, in particular, has made a number of overtures to County government to discuss aspects and opportunities for consolidation from risk management to parks and recreation to schools to municipal buildings to parking studies to renegotiating the water agreement, etc. They have turned their noses up every time to our proposals. For one reason or another. And I'm not questioning the legitimacy of their refusals. I'm only saying that over the years issues of consolidation have been discussed aggressively by City Council. A week and a half before their sweeping, living, breathing

plan came out in the newspaper, we had one of our two meetings a year with the County. It was a meeting with no pre-planned agenda but we did discuss a number of issues concerning consolidation at that time. And we were told at that meeting to wait until this group did a study, and we should wait until something else occurred and then we were finally told, well why don't we discuss these issues of consolidation at our next joint meeting, which would be in six more months. Not one word was mentioned about this sweeping plan that was in play by County staff. Now I have no dog in this show, I don't care where a good plan comes from. I'm willing to support it if it's a good plan and if it's good for the people. But why wasn't this mentioned? Why was there such secrecy? That's what I don't understand. And I don't understand why our City Manager, and why our Mayor, were not called into the process. The whole thing about consolidation, I mean the word "consolidation" implies collaboration and that requires dialog. And so there was no dialog up front, no involvement of the municipalities, and the points the Mayor makes are very good points. Is this a, I don't want to call it a smoke screen, I don't think it was that. But there have been citizen groups in this community and business organizations that have brought up issues of consolidations and made proposals and suggestions over the years. And each and every time the County has turned their back on them. And none of those groups were called into the dialog either. So, again, I support any plan that looks like it's going to make life better, but I don't think this is the way to do it. Not to create something that's accepted by the public and by the local governments."

Vice-Mayor Peterson said that when the County surprised everyone recently with their plans without telling anyone, it was a shock for him. "Why would we let the County control our budget when historically they have raised taxes more in this County than any group that has been up there? And furthermore, they wouldn't know what surplus was in their budget if it hit them over the head. I just really don't like the way they did it. This Council has proven that we're frugal. We cut taxes, we had a surplus in our budget. They haven't had one and I think this might be a reason why they don't have one. Personally, I thought it was a very poor way to try to - after two weeks ago we talked about City and County relationships getting better, I thought this was a real poor way to show this to us."

Councilman Swicegood said that he would be against the one cent sales tax increase. He felt that the people of Buncombe County are already paying enough sales tax. "After reading Mr. Rainey's letter 'I hereby offer you apology for this situation' and then they invite us to work with them, it would have been nice if they would have asked us to work with them before that. Also he states in his letter that he wants us to be a part of this process because it will have a major positive impact on our budget. I'd just like to say what Chris just got through saying is - we haven't had a tax increase on this City Council the last four years and the County has. I feel like that the school tax has a lot to do with this. I feel like they are in a bind on the parking deck, the need for the jail and I think this is just a disguise for the County to try to raise taxes to cover them so they won't have to raise taxes. I'm all for consolidation. But like I said in the past, we've got communication centers that are in three different areas - we've got police, sheriff, 911 and fire. If we're truly wanting to consolidate, we need to take a look at the issues of parks and recreation, risk management and these communication centers, which they've all turned us down. And it's been within the last six months. I was totally confused when I read in the paper they wanted to consolidate the school system and everything because if we can't consolidate parks and recreation, I

feel we're going to have a hard time with the school systems. Another thing is, just because we're going to consolidate, I don't feel like it necessarily should increase taxes. I think consolidation should save taxpayers money instead of costing money. And I would say to Mr. Rainey that they need to worry about their budget, not ours. I feel like ours is in pretty good shape."

Councilwoman Field echoed prior comments. She said that after we had just spent a lot of time with the Institute of Government trying to come up with a proper and appropriate way to consolidate parks and recreation then to have them just turn it down without even looking at it, she felt it was a very unprofessional way of approaching the situation. However, she was cautiously optimistic because this is the first indication we've had that the County is interested in any kind of consolidation because every time we put our hand out, it's been slapped. She certainly has every intention in listening to the plan but she has no intention in voting for any sale tax increase, or any other tax increase period.

Councilman Watts felt that if there was to be any consolidation, he would like to see a metropolitan law enforcement center. At the joint meeting a couple of weeks ago he mentioned the City taking over Aston Park, but the County was interested even in that.

Mayor Martin said there should be no mistake that this Council and other Councils in the future will always listen to proposals to create efficiencies in government. He felt we would need to start consolidation where it's most reasonable to start and work out plans to consolidate in those areas for everyone's advantage. But first the County needs to find out if they have a chance for that one cent sales tax.

Councilwoman Sitnick said that this is the kind of behavior on the part of people with leadership roles that fosters the public's suspicion and distrust of government. From that point of view, this was a very bad move on the part of the County. As far as she was concerned, it sets the process back, rather than forward.

Mayor Martin said that until City Council receives further details from the County, they would not instruct staff to proceed further.

Mr. H. K. Edgerton also expressed his disappointment with how the County handled this consolidation issue and hoped that at the next joint City/County meeting public comments would be taken.

FUTURE WORKSESSION ITEMS

Councilwoman Sitnick thanked Councilman Watts for inviting the North Carolina League of Cities to Asheville this year. She felt these kind of meetings really helped the economic development of Asheville.

She presented Council with several a copy of G.S. 160A-362 which gives the County appointees to the Planning & Zoning Commission and the Board of Adjustment the right to vote on matters at issue within the City or within the extraterritorial jurisdiction. She asked Council to consider at a future meeting whether or not they want to continue to allow County appointees to vote on matters that involve City zoning issues or not.

She then brought before Council "the issue of the sad and irrevocable action that occurred at Jones School over the last few

weeks. I've spoken to Council a couple of times about the fact that what happened is not what we thought was going to happen. And what I have done is that I have taken all of the notes, all of the minutes, all of the letters that substantiate that and I'm going to hand them out to you and then I'm going to briefly go over them to show you where Council was either, I don't want to say we were lied to, but clearly we were mislead. And I don't know whether this Council would have supported what went on at Jones School if had known what was truly going to happen there. If anybody in the press wants copies of this, I would be happy to hand them out to you. If you will look at page one where I have bracketed, I have marked just about everything. Let me tell you, if you take this stuff home and read through it, you will be appalled at what we were told and what actually happened. The first page, January 17, 1995, these are minutes from the Tree/Greenway Commission. It clearly, you can see where Bruce Youngberg, who was an associate of Mr. Cort from Cort Associates, said to the Tree/Greenway Commission that one acre of property would be disturbed and this was the area for fill dirt. If you turn the page there is a letter dated February 1 to Mr. Cort inviting him to the next meeting of the Tree/Greenway Commission for the February 20 meeting. Mr. Cort came before the Council and told us he only had a two day notice about that meeting. If this letter was dated February 1, he received it the second or the third, which would have given him at least 16 or 17 days to prepare for such a meeting. The next page is additional minutes from the Tree/Greenway Commission on February 20 indicating that Bruce Youngberg and John Cort said that they could not attend this meeting. The next page is a Tree Commission letter to the City Council that was sent to us at the end of March of this year. I read this letter into the minutes of the City Council meeting. As you can see, the Tree Commission requested a meeting with the architect and in the minutes and in this letter it tells us that the architect did not extend the Commission the courtesy of attending. The next is minutes of the March 27 Tree/Greenway Commission where you see it bracketed. Again you need to read through that paragraph to understand how clear the City, the Tree Commission was with the architects. They did not bring in any preliminary plans to us. They did not bring in any schematics to us. They told the Tree Commission that they didn't have any drawings at that time and there was no way for us to know exactly what was going to transpire on that property. The minutes of the April 18 meeting of City Council. Again, I read the letter into the minutes. If you will turn a couple of pages, I starred and circled and underlined some important passages - one where Mr. Cort tells the City Council that he was never properly notified by the Tree Commission with any lead time. Clearly by the letter that was sent 17 or 18 days before he was notified, he had plenty of time. In these papers that I've given you, you will clearly see that we were initially told one acre of property would be disturbed. In the second meeting we were told approximately three acres would be disturbed. And if anybody has driven by the Jones School property recently, you can see that everything, except the outer edge of that property has been disturbed. And if you will see on the last page, Mr. Youngberg tells that one acre of trees will be cut at the old Swain property in order to obtain fill dirt. And that was as late as April 5, 1995, to the Planning & Zoning Commission. A travesty of justice occurred. And if anybody has not seen the Jones property, I suggest you take your barf bag and go and look at it. It's the most blatant disregard for nature. It's the most blatant disregard for the people of this community, the Tree Commission, the neighborhood association, the City Council, and I can't believe that when I made the motion to set a public hearing that somebody on this Council would not have seconded it if they believe that what happened to the Jones School property was going to happen. We were told one acre would be disturbed. I would be surprised if there was one acre left that wasn't disturbed. So I submit

these for the record. We were mislead. We were lied to. The Tree Commission was lied to. Joey Moore the Chairman of the Tree Commission called Susan Fisher on the School Board to express the Commission's concern about what was going to happen there and as you can see the results, we were all ignored.

Councilman Swicegood said that "on the back of the page, the very back sheet, it says just under three acres of trees would be cut if the parking lot is not built. When was that? April 5th?"

Councilwoman Sitnick said "right, but that was both properties Carr. When they're talking about one and three and four acres, there's an area up against the schools where they're going to actually build a playground, a parking lot and extend the school for additional classes. That's one portion. But we were told consistently only one acre on the Swain property would be disturbed for fill dirt. I also have in my file, by the way, some notes - one of them including a woman who lives in the north end of town who video taped and followed the trucks with fill dirt - they were hauling the fill dirt to some site on Leicester Highway from the Swain property. Were they were just going to cut one acre of trees to take the knoll down for fill dirt on the school property. Now it's perfectly legal to take timber and dirt off the property and sell it and make a profit on it. That's not the point. The point is we were told one thing and clearly another happened. And now it's too late and it makes me want to cry. I really to recommend you take some of this home because it's incredible the way the minutes read and then you go look at the reality of the situation. Not even close."

She then presented a letter, resolution and fact sheet given to her by the Blue Ridge Environmental Defense League. The US House of Representatives Commerce Committee voted for HR 1020 which would, among other things, expose North Carolinians to rail shipments of 821 casks - each carrying 24 irradiated fuel assemblies - each carrying the long-lived radiation of 240 Hiroshima bombs. She asked Council consider passing the resolution against nuclear waste transportation through Asheville.

She passed out a list containing 20 items entitled "policies, motions, resolutions and random thoughts for City Council consideration." She also passed out a list containing 73 items (some which have been completed) entitled "suggested worksessions". She urged all Council to look these documents over and think about each item. Perhaps the Council would be interested in receiving a report or having a worksession on some of them. She then passed out her comments on boards and commissions and suggested Council review her comments prior to the worksession on this item which is scheduled for September 19.

Vice-Mayor Peterson appreciated Councilwoman Sitnick's time and effort she takes to compile these lists and felt sure all of Council would review her items.

CONSENT:

Transit Operating Grant

Summary: A public hearing is to be scheduled on September 26, 1995, in order to authorize the filing of an application with the Federal Transit Administration for the City of Asheville's annual transit operating assistance grant. This grant will assist in offsetting the operating cost of the Asheville Transit Authority. These funds will be used for operating the fixed route transit system and

assists in funding the City's comparable paratransit program operated through "BOOST."

Ordinance reducing speed limits on Homewood Drive, Hamilton Street and Brooklet Street to 15 miles per hour; on West Chapel Road, Wyoming Road, Ambler Road, Arco Road, Bent Oak Lane, Deer Haven Lane, Braeside Circle, Crocus Lane, Conifer Court, Red Fox Circle and Avon Road to 20 miles per hour; on Pearson Bridge Road and Stratford Road to 25 miles per hour; and on Alexander Drive, Westridge Drive, Springside Road and Oakley Road to 30 miles per hour

Summary: The City's Traffic Engineer has performed the necessary traffic analyses associated with these locations and seeks authorization from City Council to change the speed limits.

Ordinance prohibiting truck traffic on the entire length of Montford Avenue, Dunwell Avenue, Stoner Road, East Street, Glendale Avenue and Ridgelawn Avenue

Summary: The City's Traffic Engineer has performed the necessary traffic analyses associated with these locations and seeks authorization from City Council to prohibit truck traffic.

Ordinance designating Victoria Road, between a point approximately 400 feet before and approximately 300 feet after the Asheville High School driveway, as a school zone

Summary: The City's Traffic Engineer has performed the necessary traffic analyses associated with this location and seeks authorization from City Council to designate that portion of Victoria Road as a school zone.

Privatization Update

Mowing and Right-of-Way Privatization

Summary: This quarterly report is on the status of the privatization of mowing and clearing. Several meeting with the Parks and Recreation staff have resulted in the development of a draft for Request for Proposals. This Proposal is currently being reviewed by staff and the City Operations Advisory Committee. It is anticipated that prior to spring of 1996 that multiple contracts will be in place to accommodate the City's mowing and right-of-way clearing needs.

Infirmary Privatization

This quarterly update is to inform Council that the infirmary privatization is currently on track. The contract for physician services, which will be recommended to Council in the next several weeks, will likely involve a physician on a part-time basis in the current Health Care office on the 6th Floor of City Hall for a six-month trial period. If the project is successful at that time, staff will negotiate a contract relocating that operation off premises to a private physician office under a longer term contract.

Civic Center Concessions Privatization

This quarterly update is to inform Council that the City Manager has allocated additional staff to assist in this project. Several meetings have taken place. Of concern at the present time are some recent figures from the Civic Center which indicate that gross revenues

for the twelve month period just ending have increased by $258,831 over the previous twelve months. Similarly, net revenues have increased $712,209 for the same period.

Costs for concessions have not increased correspondingly to account for the additional revenue. There is a valid question at the present as to whether or not the current twelve month period represents anomaly, or reflect an upturn in the revenues from this function. To privatize at the present time based on previous years lowers revenues might be detrimental to the City.

Staff is currently considering three options for approaching this project. First is to postpone any decision on privatization of concessions for at lest a twelve month period to determine whether or not the revenues drop back to a level consistent with previous years, or remain at a constant higher level. Second is to initiate privatization efforts through Requests for Proposals and taking competitive bids, including the Civic Center as a bidder. Third, to secure the services of an outside consulting group (we have already received quotes on services) to evaluate the practicality of contracting out those services at this time.

Staff is recommending to delay initiation of this project for at least twelve months to evaluate further the revenue stream from concessions at the Civic Center.

It was the consensus of Council to proceed with appropriate actions necessary at the next formal Council meeting.

OTHER BUSINESS

ADJOURNMENT

Mayor Martin adjourned the meeting at 4:08 p.m.

Magdalen Bronson
CITY CLERK

MAYOR

Tuesday - September 12, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Mayor Martin gave the invocation.

ASSISTANT CITY MANAGER S. DOUGLAS SPELL

City Manager Westbrook introduced the new Assistant City Manager S. Douglas Spell.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER 17-23, 1995, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Martin proclaimed the week of September 17-23, 1995 as "Minority Enterprise Development Week" in the City of Asheville. He presented the proclamation to Ms. Sharon Arrington, President of the Black Business and Professional League, who briefed the Council on activities planned for the week.

B. RECOGNITION OF WATER USE EFFICIENCY AWARD

Mayor Martin presented Ms. Robin Westbrook, Water Efficiency Coordinator, with the Water Use Efficiency Award from the Environmental Protection Agency.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING 104 LOTS IN THE AREA WHICH INCLUDES, BUT IS NOT LIMITED TO, VIRGINIA AVENUE, HUBBARD AVENUE, BROTHERTON AVENUE, DURHAM STREET, SPRING STREET, HUDSON STREET AND STEWART STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT TO R-1A (SINGLE-FAMILY) MODERATE DENSITY RESIDENTIAL DISTRICT

ORDINANCE NO. 2234 - ORDINANCE TO REZONE 103 LOTS IN THE AREA WHICH INCLUDES, BUT IS NOT LIMITED TO, VIRGINIA AVENUE, HUBBARD AVENUE, BROTHERTON AVENUE, DURHAM STREET, SPRING STREET, HUDSON STREET AND STEWART STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT TO R-1A (SINGLE-FAMILY) MODERATE DENSITY RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 5:13 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this rezoning request was initiated by the property owners and endorsed by the Planning & Zoning Commission ("Commission"). The request is to rezone 104 lots in

the area which includes, but is not limited to, Virginia Avenue, Hubbard Avenue, Brotherton Avenue, Durham Street, Spring Street, Hudson Street and Stewart Street from R-3 Medium Density Residential to R-1A (Single-Family) Moderate Density Residential.

The subject area encompasses approximately 46 acres. The majority of the area is single family homes with about 26 vacant lots and one lot with a small apartment complex. The subject area and the surrounding properties are zoned R-3 Medium Density Residential.

The Planning staff reviewed the rezoning petition, verified its validity and recommended approval to rezone all 104 lots from R-3 to R-1A. At the August 2, 1995, Commission meeting, the Commission voted unanimously to rezone 103 lots from R-3 to R-1A and leave lot 9638-18-30-1842 zoned R-3 since it contains the small apartment complex.

Mayor Martin closed the public hearing at 5:17 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2234 to rezone 103 lots to R-1A (Single-Family) Moderate Density Residential and leave lot 9638-18-30-1842 zoned R-3 Medium Density Residential. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2234 passed on its first and final reading.

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B. PUBLIC HEARING RELATIVE TO REZONING 46 BAIRD STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT TO R-4 HIGH DENSITY RESIDENTIAL DISTRICT

Mayor Martin said that on September 11, 1995, a letter was received by Mr. Porter Staples stating that he was withdrawing his petition to rezone 46 Baird Street.

C. CONTINUATION OF PUBLIC HEARING TO REZONE 65, 73, 77, 83 AND ONE VACANT LOT ON MONTFORD AVENUE FROM R-4 RESIDENTIAL TO CG COMMERCIAL GENERAL

Mayor Martin said that this public hearing was opened on December 6, 1994, continued until March 21, 1995, May 23, 1995, and then continued until July 25, 1995, in order to give staff sufficient time to work with the community to address the Head of Montford Redevelopment Plan in general. The public hearing was then continued until this date in order to give the City Attorney sufficient time to investigate the petitioner's allegations that the original down zoning of their property in 1984 was illegal and improper.

Mr. Mike Matteson, Urban Planner, briefed the Council by saying that James and Shirley Dozier have requested that two lots (formerly five lots - they were recently combined into two lots) on the east side of Montford Avenue be rezoned from R-4 high density residential to CG commercial general. The area requested for rezoning totals 1.18 acres.

City Attorney Slawter said that "at the July 25 meeting, Mr. Sneed asked, on behalf of Mr. and Mrs. Dozier, two questions. One, whether

the rezoning in 1984 from CBD to R-4 was legally or illegally instituted. Secondly, whether tax lot 91 had ever legally or illegally zoned anything other than CBD. There was a third question from the audience with regard to whether the Dozier property was ever properly zoned CBD to begin with. Someone said they had checked and they had not been able to find any records when the property was rezoned to CBD to begin with. In your package I have included a history of the zoning in the area that sets forth the rezoning of these properties from the time that we've had zoning within the City and that history answers the second of the Dozier's question, as well as the question from the audience. Tax lot 91 is the northernmost of the Dozier lots and it has always been zoned residential. Our search did not indicate that it had ever been zoned anything other than residential. It also answers the question from the audience with regard to whether that part of the Dozier property that was once zoned CBD was properly zoned CBD. And it was - when we first got zoning in the City that area was originally zoned an earlier form of residential that we no longer have. And then it was later zoned Commercial Regional, which we no longer have. In 1977, I believe, there was an amendment to the zoning ordinance that changed everything that used to be Commercial Regional to Central Business District. And that's when the Dozier property became CBD, it was properly zoned CBD. The remaining question of whether the rezoning in 1984 that changed the Dozier property from CBD back to residential was properly instituted required our looking at everything we could find through the records to see how that process was instituted and in that search we found that there was a petition as Mr. Sneed pointed out in July and in fact it was not signed by 51% of the people who owned property within the larger area that was rezoned. In addition the petition was signed by people who rented property in the area, as well as owned property in the area, which is not an appropriate method for triggering a rezoning under the 51% procedure. And it was also signed by people neither rented nor owned in the area that was being rezoned. So it didn't meet the threshold of the 51% for a rezoning under the provision that allows 51% or more of the people in an area to institute a rezoning. Our research, however, also indicated that the initial stages of that rezoning process were included involvement by City staff and various members of the neighborhood which led to the appointment of a City Council committee at a City Council annual retreat early in the year that the rezoning took place. That City Council committee made a recommendation to the entire Council that the Council pass a motion asking P&Z to look at rezoning of the area and the Council did adopt such a motion asking P&Z to look at the rezoning of the area. The P&Z minutes then reflect that there was a petition being circulated in the neighborhood in support of the rezoning, but it was our conclusion, from the records as we found them, that the rezoning process was really instituted by the Council and was a proper process that caused the rezoning from CBD to R-4 in 1984."

Councilwoman Sitnick asked if the change from five lots to two lots change the process. Mr. Matteson said that the change does not affect the rezoning request.

Mr. Albert Sneed, attorney for the petitioner, said that "thanks to the excellent history that Mr. Slawter prepared, I've talked to Ms. Dozier and we are prepared to withdraw the request to rezone lot 91 because his history shows it's never been zoned commercial. So we would to that at this point. So, it's actually now just one lot, which is the four lots that are combined into one."

Mr. Sneed then said that "Mr. Slawter's report was very helpful and I thought was fair. I do have this question. It appears that the

City Manager and the then City Council in February of 1984 passed a motion directing P&Z to look at this. And then on the 14th of March, 1984, P&Z voted to deny the request. Reading from Ms. Hutchison's history on 2-7-84, 'the minutes go on to say, Councilwoman Price moved that the Planning & Zoning Commission consider the Montford Community Club's recommendation for rezoning in the Montford area during their March meeting.' And I take it that that motion was seconded by Mr. Boland and carried. So, at that point the question we had about whether or not City Council initiated anything was answered. And then if I understand on the 14th of March, 1984, P&Z voted to decline the request. And then a period of more than 30 days passed without an appeal to City Council. And then it was brought up by another motion by Councilman Price on May 15, 1984, which in her words, and the motion as set out in the minutes, was 'pursuant to the petition'. So it would seem to me, and I wanted to know what Mr. Slawter's approach was, that since the Planning and Zoning Commission action initially started by City Council was not appealed within 30 days, and the matter was restarted by her pursuant to a petition that was invalid, would that in any way change his opinion."

City Attorney Slawter said that "the 30 day provision is something that was thought about and discussed in connection with preparation of this history, because when the Planning and Zoning Commission makes a negative recommendation to the Council, the normal process is for the matter to be appealed to the Council by the petitioner. When the process is initiated by the Council itself, I'm not quite sure how the Council would appeal to itself on a decision. To whom would it present the petition for appeal? I'm not certain. I was satisfied that the process, after the P&Z denial, was sufficient with Council looking at it and having the public hearing on it. In fact, there were two City Council public hearings. The first City Council public hearing considered recommendations from the Montford Community Club and also had advertised to the public that further comments would be taken from the general public. The discussion centered around, apparently, whether to in fact put the matter on the Council agenda for consideration for voting on the rezoning. Following the first public hearing on the matter, Council did decide to put the matter on the Council agenda for another public hearing to consider formally the rezoning and then the second public hearing was held. Truthfully the ordinance probably was not worded as well as it should have been to have the type of process that was followed in that situation with the City Council appeal, or a City Council initiation of the process, but I was satisfied that the process that was followed was sufficient to be a valid rezoning."

Ms. Mary Jo Brezny felt that any type of commercial zoning in the Montford Historic District will be a loss, not only to the residential community but to the entire City.

Vice-Mayor Peterson asked Ms. Brezny what the difference was between bed and breakfast inns that are already in the Montford Historic District and commercial establishments. Ms. Brezny felt that commercial establishments bring people into the neighborhood to purchase things and leave. Bed and breakfast inns bring people into the neighborhood who stay there at least overnight. There are people living in the bed and breakfast inns all the time, whereas in commercial establishments, they are usually vacant at night. She truly felt that in 10-15 years the commercial zoning will creep down Montford Avenue and they will no longer have a residential neighborhood.

Mayor Martin pointed out that it's up to City Councils and neighborhoods in the future as to whether or not the commercial zoning will creep down Montford Avenue.

Mr. Sneed said that "my client has asked me to ask the City Council whether or not City Council supports the opinion that Mr. Slawter has given."

After asking Council members, Mayor Martin responded "yes".

Mr. Sneed then said "my client will save you some time and withdrawn her rezoning petition."

Ms. Dozier, walking out of the meeting, said that "...we asked for the property to be rezoned ... 1989 redevelopment plan which was never adopted by City Council ... take our land by condemnation if necessary to make the plan into effect. So at that time we asked for a zoning so we could get this in front of City Council to keep our property from being down-zoned any further and be taken away from us. And on that request I feel we were down-zoned ... by the petition in 1984 and ..."

By use of the Head of Montford Redevelopment Plan and upon inquiry of Mr. H. K. Edgerton, Ms. Julia Cogburn, Planning & Development Director, outlined the boundaries of the Head of Montford.

Mayor Martin closed the public hearing at 5:42 p.m.

Councilwoman Sitnick requested that we amend the zoning ordinance under R-4 to eliminate manufactured home parks and under NC Neighborhood Commercial to eliminate department stores and branch banks. She said part of the problems that Council has faced regarding rezoning issues don't necessarily have to do with rezoning, but have to do with uses. The Board of Adjustment cannot grant variances for uses and she feels that the elimination of these uses from these two designations will in the future allow us to have less contention in the community regarding rezoning issues involving R-4 and NC designations. She realized that when the UDO is adopted there will be some changes made, but she would still like Council to consider this the UDO deliberations.

Vice-Mayor Peterson spoke in favor of Councilwoman Sitnick's request.

Upon inquiry of Vice-Mayor Peterson, Ms. Cogburn said that all of the districts and all of the uses within each of those districts are being included in the discussion on the UDO. The proposal that is now on the table would change all of the districts in some respect. This particular provision with regard to NC and R-4 is not being looked at right now. Staff could go ahead and do a wording amendment as the UDO process moves along. Because this is an amendment to the zoning ordinance, the request will have to go to the Planning & Zoning Commission and then back to City Council.

Councilwoman Field said that as long as variety stores are left in NC she could support that amendment. However, since manufactured home parks are only allowed in R-4 and R-5 zoning districts, she wondered how many nonconforming situations we would be creating.

Ms. Cogburn felt that we wouldn't have any problem with NC situation because there aren't very many areas in the City that are zoned NC. She would, however, have to do some research in terms of the manufactured housing.

It was the consensus of Council to have this matter brought up at an upcoming worksession.

III. UNFINISHED BUSINESS:

A. ORDINANCE TO REZONE A ONE FOOT STRIP ON THE EAST SIDE OF 620 REED STREET AND A PORTION OF A LOT LOCATED AT 526B HENDERSONVILLE ROAD FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY

Mayor Martin said that this public hearing was held on August 8, 1995, and the matter was tabled until this date in order to give the City Council an opportunity to visit the site.

Mr. Paul Benson, Urban Planner, said that M. Realty and Phillip Poulos has petitioned to have rezoned a one foot strip on the east side of 620 Reed Street (M. Realty), and a portion of 526B Hendersonville Road (Phillip Poulos) be rezoned from R-3 Medium Density Residential to CH Commercial Highway. The one foot strip at 620 Reed Street was denied by City Council on October of 1993.

On July 5, 1995, the Planning & Zoning Commission ("Commission") held a public hearing on the rezoning request. Two neighboring property owners spoke in opposition to the proposed rezoning.

After the public hearing, the Commission recommended denial of the requested rezoning. Planning staff recommended that the Poulos property be rezoned with the exception of a one foot strip along Reed Street and that the one foot strip on the M. Realty property remain zoned R-3.

On July 12, 1995, the petitioners submitted a written appeal letter to the City Clerk appealing the Commission's decision to the City Council.

Mr. David Matney, attorney representing M. Realty and Mr. Poulos, passed out three pictures, two of which showed that the Hendersonville Road Widening Project reduced the parking spaces in front of the business at 530 Hendersonville Road from 25 to 12 spaces. The lot behind the building, and the only possible use for this area, is for staff parking and they need the access onto Reed Street. He said that the M. Realty lot has no effective use as a separate commercial site since the public would not be able to find it. He said that they are requesting this one foot strip along Reed Street be rezoned to CH because since 1993, two other rezonings have come before Council and their properties were zoned right up to Reed Street, without the one foot strip.

Ms. Lucille Frady, resident at corner of Reed and Center Streets, spoke in opposition of this rezoning request.

Ms. Jones, owner of property on Reed Street which adjoins the back of 530 Hendersonville Road, was concerned that there would be more businesses in the area if the lot was rezoned CH. As far as a parking lot was concerned, she had no objections. She stated that she now shares the driveway in the back of the property, and was concerned that if the lot was zoned CH, would her driveway privileges be taken away.

Mr. Matney said that the rezoning would not affect her right to use the driveway at all. He said that the gravel driveway might be paved which would be for her advantage.

After visiting the site, Councilman Watts felt Reed Street would not be able to handle the additional traffic.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved to deny the rezoning request. This motion was seconded by Councilman Watts and carried unanimously.

IV. NEW BUSINESS:

A. AN ORDINANCE AMENDING THE CHARTER AND RELATED LAWS OF THE CITY OF ASHEVILLE TO PROVIDE FOR FOUR-YEAR STAGGERED TERMS FOR CITY COUNCIL AND SCHEDULING A SPECIAL REFERENDUM

Mayor Martin said that this public hearing was held on August 22, 1995.

City Attorney Slawter said that this ordinance provides for the amendment of the City Charter so as to provide for four-year staggered terms for the six members of the Council and retaining a two-year term for the Mayor. As instructed by the Council, the ordinance has been drafted so as to provide for the ordinance to be subject to a referendum, rather than becoming effective upon adoption. In order to call upon the Board of Elections to schedule the referendum, the adoption of a resolution will also be necessary.

Mr. Slawter reported that during the public hearing on August 22, 1995, related to four-year staggered terms, questions were raised regarding the procedure that would be followed when a Council member who is mid-way through a four-year term decides to run for Mayor. We were instructed to determine what other cities do in that situation.

Since the August 22, 1995 public hearing, we have determined that the general election laws of North Carolina would require a Council member in that situation to resign from his or her Council seat in order to seek the position of Mayor (N. C. Gen. Stat. sec. 163-125). Section 7 of the City Charter provides that "any vacancy in the office of mayor or council shall be filled by the council for the remainder of the unexpired term from the qualified electors of the City of Asheville." That Charter provision is different from the general state law for the filling of vacancies on municipal governing boards. N. C. Gen. Stat. sec. 160A-63 also provides for vacancies to be filled by appointment of the remainder of the Council, but not necessarily for the remainder of the term. Under that general statute, the person appointed by the Council to fill such a vacancy serves the remainder of the term if the next regular City election will be within ninety (90) days after the vacancy occurs. If the next regularly scheduled City election is more than ninety (90) days after the vacancy occurs, the person appointed to fill the vacancy serves only until the vacancy can be filled in that ensuing election. In the case of a Council member resigning his or her position from the Council in order to run for Mayor, the filing requirements would ensure that the vacancy would occur more than ninety (90) days before the next City election, and thus the person appointed by the Council to fill the vacancy would only serve until the seat could be filled at the election. Since Charter provisions establishing specific standards generally control over the general statutes, Section 7 of the City Charter would appear to control, so that the filling of any vacancy in Asheville under the current law would be for the full remainder of the term.

In order for Asheville to come under the general rules established by N. C. Gen. Stat. sec. 160A-163, the Council would need to request

that the state legislature adopt legislation repealing Section 7 of the City Charter. If the Council should decide that it would like to proceed under some different procedure, special legislation would also need to be requested

Vice-Mayor Peterson said that he was totally against four year terms. He felt the seats should be for temporary inhabitants and not permanently. Too many promises have been made that have not been kept. They say anything and do anything to get elected. He felt people should be elected every two years in order to keep them accountable. He felt the four year term is a weakness in the County Commissioners.

Mayor Martin disagreed with Vice-Mayor Peterson and felt that the this matter should be on the November ballot and let the people decide.

Councilwoman Sitnick said that she "started out thinking that four year terms would be great. Primarily to save the taxpayers money with general elections every two years and also because by the time you get used to all of the intricacies and details of being a good Council person your term is up and your projects are not finished - you've initiated things that have not been completed and there is something about 'election time' that changes our behavior, changes the way we say things, changes our schedules and where we chose to go during election times. It creates a bit of hypocrisy. On the other hand I have a real problem with the intricacies of what Mr. Slawter just detailed to us having to do with someone on Council who decides to run for Mayor vacates that seat and the seat is filled by appointment of the members of Council. As I said in the minutes last week, of course this wonderful Council would pick the very best, most wonderful Council replacement we could. But, there might be other Councils who chose to pick their buddy to fill that seat. I also feel there would be a real unfairness to the members of Council who retained their seats who have to raise money and campaign and run for office and win. As opposed to somebody who gets appointed because there happens to be a seat vacated. So, I would have a real problem with the lack of democracy in that person being added to Council by appointment rather than election. And so, I have, as some people in elected office do, changed my mind and I think that the two year term, while it might be a little more difficult on the candidates, I think would benefit the public to make us more accountable, to hold us up to a higher standard of living up to the things we say during a campaign and the solutions we pose during a campaign. So I'm going to support two year terms until I'm convinced at another point that four year might be better. If they can do it in the Congress, we can do it here."

Councilman Watts said that when the process began, he strongly supported four years because it was too expensive to run every two years. However, since that time he has had a chance to consider all the pros and cons and he now personally feels that four consecutive years is too long to serve. At this time he supports two year terms.

Councilman Swicegood said that after the last election there was an attempted recall and a lot of money was spent because people weren't happy with what decisions were made by City Council. At that time, he felt the public should have the opportunity to vote for two or four year terms. However, he now felt that a four year term might take a lot of good business people out who don't want to make a four year commitment. At this time, he could only support a two year term.

Upon inquiry of Councilwoman Sitnick, Mr. Slawter said that Council can either make the four-year change itself, or make the change

subject to a vote of the people. The way the ordinance is prepared before the Council is subject to a vote of the people.

Councilman McClure said that he too started out thinking that it was a good idea to go with four year terms. However, after talking with our local delegation and some of our congressional people they felt they were more accountable if they had to run every two years. Also, how to replace a Councilmember is a big issue and to explain the process to the public will be very difficult. He felt at this time he would not support four year staggered terms.

Councilwoman Sitnick also said she was glad Councilman Swicegood brought up "the available of office to business people. And I assumed you also meant working people. I've talked about this before and I think at some point this Council should continue the work that was started by a community committee that was set up four years ago to look into the issue of salaries paid to members of Council. When you pay a member of Council $6,000 a year, before taxes, what you're doing is you're saying to the people who consider running to be public servants that only the rich need apply. Or only those who don't have to work need apply. Or only those who have others working in their businesses need apply. I think what you do is hold at arm's length many qualified citizens who would like to serve but can't afford to under these circumstances. While I would strongly oppose any kind of salary that created professional politicians I would certainly support creating a salary that shadowed the per capital income of the average Asheville citizen, which is approximately $15,000. That is not going to create a professional politician, but what it might do is allow the teacher, or the student, or the butcher, the baker and the candlestick maker the opportunity of serving the City as an elected person and being able to amend their salaries and their income so that they can do this an appropriate amount of time - work half time in their job and still make enough money to support their families. What you create when you pay the heads of your public corporation such a low salary is an elites government and I think that serves the public poorly. So, I don't know whether this Council would be willing to consider it, the Council prior to the last one was paid $2,100 a year. Barbara, Councilman Watts and myself attended a National League of Cities Leadership Summit last week at the Grove Park Inn and had an opportunity to speak to Council people across this country. None of them are getting rich by being on Council, but many of them are able to afford to serve because their salaries are appropriate. So I would ask this Council to consider that and to consider possibly raising the salaries of Council so that everybody can serve, not just the wealthy."

Mayor Martin pointed out that there are 23 citizens who are vying for six seats on Council - some are working people, some are college educated, some are professionals and some are retired. So in spite of the $6,000 salary, the number shows that the salary doesn't preclude anyone from applying for the job.

Ms. Betty Lawrence also felt that a two year term would hold the Council accountable. She thanked Council for the work they have accomplished in the last two years. She agreed that Council's salary should be increased because there are a a lot of good people who can't run because of the time and money commitment.

Councilwoman Field felt that the accountability issue is critical and supported two year terms.

Ms. Mary Jo Brezny spoke in favor of increasing Council's salary and remaining with two year terms.

Mr. Roy Harris felt that two year terms makes Council members more accountable.

Ms. Hazel Fobes spoke in favor of two year terms and raising Council's salary.

Vice-Mayor Peterson moved to deny the ordinance amending the Charter and Related Laws of the City of Asheville to provide for four-year staggered terms for City Council and scheduling a special referendum. This motion was seconded by Councilman Swicegood and carried on a 6-1 vote, with Mayor Martin voting "no".

B. RESOLUTION CALLING FOR A REFERENDUM TO PROVIDE FOR FOUR-YEAR STAGGERED TERMS FOR CITY COUNCIL

Mayor Martin said that this resolution is not necessary as a result of the discussion on the prior matter.

C. RESOLUTION NO. 95-133 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE LEASE AMENDMENT NUMBER TWO TO THE LEASE WITH THE ASHEVILLE REGIONAL AIRPORT AUTHORITY

City Attorney Slawter said that at the September 5, 1995, City Council meeting, the Airport Authority requested that the City Council authorize the addition of three parcels of City property to the Airport Lease. The City Council directed staff prepare a resolution authorizing the addition of two of those parcels. This resolution will authorize an amendment to the Airport Authority lease so as to add to the lease those two parcels.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman McClure moved for the adoption of Resolution No. 95-133. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 362

D. RESOLUTION NO. 95-134 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH RUSSELL WOOD, BEVERLY-HANKS & ASSOCIATES, AS THE REAL ESTATE FIRM TO MARKET AND SELL SELECTED CITY-OWNED PROPERTIES

Ms. Patty Joyce, Senior Planner, said that at the direction of the City Council, staff evaluated the four firms that submitted proposals for the sale of City owned properties and selected "tax foreclosure lots". Staff presented the results of the evaluation to City Council, which revealed that Beverly-Hanks and Associates received the highest evaluation.

The forthcoming contract will be approved by the City Attorney's Office before execution. Appraisal reports requested for the City's three larger parcels will be reported to City Council for discussion prior to being listed.

Councilwoman Field thought Council was to have received additional information about how staff went about evaluating the different firms. Ms. Joyce responded that the only other information she has are the staff notes from each interview.

Councilman Swicegood spoke in support of Beverly-Hanks & Associates.

Councilman McClure asked that priority be given to any of the proceeds from the sale of these properties be used to develop parks in the City of Asheville. We need soccer fields, baseball fields and he would like for these funds to be dedicated, priority-wise, for the development of parks in the City. He understands that there are streets and sidewalks that need repair, but we also need parks. He's not asking that all the funds be committed to parks, but that a priority be placed on parks. He asked this item be placed on an upcoming worksession agenda. Councilwoman Sitnick suggested that the possibility of a City-wide park bond be included in the discussion.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 95-134. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 366

E. RESOLUTION NO. 95-135 - RESOLUTION OF INTENT TO ENTER INTO AN AGREEMENT WITH BILTMORE VILLAGE MERCHANTS ASSOCIATION FOR PHASE I OF THE BILTMORE VILLAGE STREET LIGHTS

Ms. Julia Cogburn, Director of Planning & Development, said that City Council agreed at their September 5th worksession to share in the costs of the historic Biltmore Village street lights in lieu of CP & L's monthly facilities use charge. The City's share per fixture will be $1400 and the Biltmore Village Merchants Association's will be $2400 per fixture. Approximately 50 lights will be installed in the first phase with upwards of 150 lights when phase two and three of the public improvements are completed.

Councilman Swicegood and Mayor Martin spoke about how much they appreciated the Biltmore Village Merchants Association working with the City on this project.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 95-135. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 367

V. CONSENT:

At the request of Councilman McClure, the resolution authorizing an administrative settlement for acquisition of a vacant lot on Morrow Street in the Head of the Montford Redevelopment Project was pulled from the consent agenda to be discussed individually.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 22, 1995, AND THE WORKSESSION HELD ON SEPTEMBER 5, 1995

B. **RESOLUTION NO. 95-136 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE OTEEN VA MEDICAL CENTER FOR FIRE PROTECTION SERVICES**

Summary: Oteen VA Medical Center has requested renegotiation of a new fire protection agreement with the City of Asheville earlier this summer.

Oteen VA staff presented City staff representatives with information on U.S. Department of Veterans Affairs ("DVA") standards on fire protection and fire response for DVA facilities. Based on these standards, on a review of fire experience at the Oteen VA Medical Center, and on Oteen VA Medical Center's internal/on-site fire protection capabilities, a fire protection agreement has been developed that provides for a reduced Asheville Fire Department response consistent with DVA fire protection standards (one engine, one aerial ladder and one District Chief.) The proposed agreement also continues Asheville Fire Department support of fire protection and fire safety education programs at Oteen VA Medical Center.

Annual payment under this revised-service-level agreement would be $30,000. This payment amount would be consistent with the level of services provided.

If a fire were to occur at the VA Medical Center that required additional firefighting resources, the Asheville Fire Department would respond with those resources.

RESOLUTION BOOK NO. 22 - PAGE 368

C. **RESOLUTION AUTHORIZING AN ADMINISTRATIVE SETTLEMENT FOR ACQUISITION OF A VACANT LOT ON MORROW STREET (PARCEL 3/9/156) IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT**

Pulled from Consent Agenda for discussion.

D. **MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 26, 1995, TO AMEND THE ZONING REGULATIONS REGARDING FEES AND CHARGES**

E. **MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 26, 1995, TO REZONE 29 JOHNSON DRIVE FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY**

F. **MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 26, 1995, RELATIVE TO FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION FOR THE CITY OF ASHEVILLE'S ANNUAL TRANSIT OPERATING ASSISTANCE GRANT**

G. **MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 26, 1995, TO REZONE TWO LOTS AT 9 EAST STARNES COVE ROAD FROM CS COMMERCIAL SERVICE TO R-3 MEDIUM DENSITY RESIDENTIAL**

Councilwoman Field moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman McClure and carried unanimously.

Ordinances:

A. **ORDINANCE NO. 2235 - ORDINANCE DESIGNATING VICTORIA ROAD, BETWEEN A POINT APPROXIMATELY 400 FEET BEFORE AND APPROXIMATELY 300 FEET AFTER THE ASHEVILLE HIGH SCHOOL DRIVEWAY, AS A SCHOOL ZONE**

Summary: The City's Traffic Engineer has performed the necessary traffic analyses associated with this location and seeks authorization from City Council to designate that portion of Victoria Road as a school zone.

ORDINANCE BOOK NO. 15 - PAGE 209

B. **ORDINANCE NO. 2236 - ORDINANCE REDUCING SPEED LIMITS ON HOMEWOOD DRIVE, HAMILTON STREET AND BROOKLET STREET TO 15 MILES PER HOUR; ON WEST CHAPEL ROAD, WYOMING ROAD, AMBLER ROAD, ARCO ROAD, BENT OAK LANE, DEER HAVEN LANE, BRAESIDE CIRCLE, CROCUS LANE, CONIFER COURT, RED FOX CIRCLE AND AVON ROAD TO 20 MILES PER HOUR; ON PEARSON BRIDGE ROAD AND STRATFORD ROAD TO 25 MILES PER HOUR; AND ON ALEXANDER DRIVE, WESTRIDGE DRIVE, SPRINGSIDE ROAD AND OAKLEY ROAD TO 30 MILES PER HOUR**

Summary: The City's Traffic Engineer has performed the necessary traffic analyses associated with these locations and seeks authorization from City Council to change the speed limits.

ORDINANCE BOOK NO. 15 - PAGE 210

C. **ORDINANCE NO. 2237 - ORDINANCE PROHIBITING TRUCK TRAFFIC ON THE ENTIRE LENGTH OF MONTFORD AVENUE, DUNWELL AVENUE, STONER ROAD, EAST STREET, GLENDALE AVENUE AND RIDGELAWN AVENUE**

Summary: The City's Traffic Engineer has performed the necessary traffic analyses associated with these locations and seeks authorization from City Council to prohibit truck traffic.

ORDINANCE BOOK NO. 15 - PAGE 212

D. **ORDINANCE NO. 2238 - ORDINANCE AMENDING CHAPTER 10 (NUISANCES - ABANDONED, NUISANCE OR JUNKED MOTOR VEHICLES) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE**

Summary: The present nuisance/abandoned/junked auto ordinance requires a complaining citizen to agree to indemnify the City against any claim when the citizen files a complaint calling for removal of a nuisance/abandoned/ junked auto from private property. This is a major impediment to effective enforcement of the City's junked auto ordinance. Planning and Development staff recommend removal of this indemnification provision from the junked auto ordinance.

ORDINANCE BOOK NO. 15 - PAGE 213

Councilman Watts moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and final reading.

ITEM PULLED FROM CONSENT AGENDA

A. **RESOLUTION AUTHORIZING AN ADMINISTRATIVE SETTLEMENT FOR ACQUISITION OF A VACANT LOT ON MORROW STREET (PARCEL 3/9/156) IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT**

Ms. Julia Cogburn, Director of Planning & Development, said that owners of parcel 3/9/135 (a vacant lot on Morrow Street) have agreed to

sell that parcel to the City of Asheville. Said amount is $1,600 which is $125 more than the established "just compensation" amount.

Nineteen unutilized vacant lots are being acquired in the Head of Montford Redevelopment Project area to be resubdivided into ten standard residential building lots. The lots will be offered for sale under the $1.00 Lot program for low and moderate income homeowners.

The offer for the subject parcel, in the amount of $1,475, was made to P. Greer Johnson by the Housing Authority. Subsequently Mr. Johnson and his wife died. The P. Greer Johnson Heirs, who now own the property, have agreed to accept $1,600, which is the amount of the tax value. Administrative settlements are permitted under HUD regulations whenever approved by the acquiring agency as being reasonable, prudent and in the public interest. Approval of this administrative settlement will expedite the acquisition process and avoid the cost of condemnation.

Councilman McClure thought it was recommended by the Head of Montford Steering Committee that they did not want the City to purchase any more property in the Head of Montford. Ms. Cogburn said that Councilman McClure is correct, however, there is an area in the Morrow Street area where a number of properties had already been purchased. This is one that has been attempted to be purchased for sometime. It makes an entire area complete. There may actually be one more parcel still to be purchased. This is completing basically an entire block of purchase which will be reconfigured and the Committee was in support of continuing forward with that effort. Ms. Cogburn said she didn't feel that this would be contrary to the request of the Committee concerning the purchase of additional property. Ms. Cogburn said that what the Committee was opposed to was initiating any new areas in terms of purchase and acquisition.

In order to give Ms. Cogburn an opportunity to research Councilman McClure's concern, Councilwoman Field moved to table this action until Thursday, September 14, 1995, at which time this formal meeting will be continued. This motion was seconded by Councilman McClure and carried unanimously.

VI. OTHER BUSINESS:

A. JONES SCHOOL PROPERTY

Councilwoman Sitnick said that she was going to send Mr. John Cort and all the members of the School Board a copy of what she submitted into the Council's record regarding Jones School, and also a copy of the portion of the minutes when she submitted those documents into the record.

B. SKATEBOARDERS

Vice-Mayor Peterson asked the City Manager into a concern expressed by a resident that the Police Department has been confiscating skateboards for 60 days.

Discussion surrounded getting input from the skateboarders and looking into the possibility of building a place for the kids to skateboard at Martin Luther King Jr. Park.

C. CLAIMS

The following claims were received during the week of August 17-23, 1995: Cindy Shook (Streets), Nancy Gregory (Finance), Dean Roberts (Water), and Liberty Bicycles (Fire).

The following claims were received during the week of August 24-30, 1995: Jerry Griffith (Streets), Stella Longshore (Water), Barbara James (Sanitation), Rachel Hutchison (Police), and Ronnie Lambert (Waters).

The following claims were received during the week of August 31 - September 6, 1995: Walter Buckner (Sanitation) and Jack Rosenstein (Police).

These claims have been referred to Asheville Claims Corporation for investigation.

CONTINUANCE

At 7:10 p.m., Councilwoman Field moved to continue the meeting until 11:00 a.m. on Thursday, September 14, 1995, in the Council Chamber of the City Hall Building. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

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Thursday - September 14, 1995 - 11:00 a.m.

Continuation of Regular Meeting of Tuesday, September 12, 1995

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Joseph Carr Swicegood

RESOLUTION NO. 95-137 - RESOLUTION AUTHORIZING AN ADMINISTRATIVE SETTLEMENT FOR ACQUISITION OF A VACANT LOT ON MORROW STREET (PARCEL 3/9/156) IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

Ms. Julia Cogburn, Planning & Development Director, said that at the April 6, 1995, meeting of the Head of Montford Steering Committee, the Committee did vote 12-1 to recommend that no additional acquisition by eminent domain be conducted in the Head of Montford area. The Committee further recommended that the remaining CD funds for the area be utilized for housing rehabilitation (with a focus on the western portion of the redevelopment area). One staff member recalls that the Committee did okay going ahead with acquisitions currently underway, however, notes from the meeting did not capture that fact. Those acquisitions would involve "friendly" condemnation. The purpose is to clear title on these properties. No forced acquisition would occur.

Staff has reached eight of the Committee members with the results as follows: four in favor of proceeding with the acquisition, three opposed (one in particular opposing the use of CD monies for acquisition), and one with no comment.

Upon inquiry of Mr. H.K. Edgerton, Mayor Martin said that the issue before the Council is only for the acquisition of property and not about zoning.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilwoman Sitnick moved for the adoption of Resolution No. 95-137. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 369

RESOLUTION NO. 95-138 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A PRESERVATION AGREEMENT WITH THE GROVE ARCADE PUBLIC MARKET FOUNDATION INC.

Mayor Martin said that "recently the federal government opened its new building in Asheville, and the federal employees of the old Grove Arcade Building moved to the new office. For some time we have all known that was going to happen and, as a matter of fact, the City has been feverishly working with a number of people to acquire the Grove Arcade, and to make sure that it continues to maintain an active role in Asheville's history. I am pleased to announce to you today that the City and the Grove Arcade Public Market Foundation, Incorporated have agreed to restore the Grove Arcade so that it once again will be a functional part of downtown Asheville. The Grove Arcade building, designed by architect Charles Parker, was conceived by manufacturer and developer Edwin Wiley Grove, the "father of twentieth century Asheville," as an ambitious commercial mall with covered pedestrian thoroughfares in the heart of Asheville. This is one of the few uses of the arcade scheme in North Carolina. Begun in 1926, the massive structure featuring a skylight arcade, roof gardens and assembly rooms, was opened in 1929. It is a grand building occupying a full city block. The building was acquired by the federal government and has been used continuously by them since that time. We now have a chance to acquire that building for the continued use by the citizens of Asheville, and in the manner for which it was originally designed. I informally appointed a Grove Arcade Committee, made up of Council Members Rock McClure and Carr Swicegood, in addition to myself, and have been working with City staff and other individuals for a number of months to bring this project to fruition. I want to thank those Committee Members for their hard work.

"Let me briefly summarize the transaction. The City will acquire the Grove Arcade, and in turn transfer it to the Grove Arcade Public Market Foundation, Incorporated. The Foundation will secure a developer to renovate the building under the conditions specified in our contract with them. On behalf of the City Council, let me say thanks to a group of people who have been working on this project with us all along prior to asking the City Attorney to brief Council on the contract.

"First of all I want to again thank the Grove Arcade Committee made up of myself, Council Members McClure and Swicegood. I want to, on

behalf of the City Council, say a special thank you to Congressman Charles Taylor for his help and assistance with this project over the past year. The Council appreciates his guidance and understanding in this matter. I would also like to thank City Manager Jim Westbrook and City Attorney Bill Slawter for continuously working with the Committee throughout this project. Also, I would like to thank staff members Julia Cogburn and Maggie O'Connor for their help. On behalf of the Council I would also like to thank the Grove Arcade Public Market Foundation for their help in the reconstruction and future development of the Grove Arcade.

"Last of all and most importantly, the City Council and I would like to thank a great benefactor of the City of Asheville. We are fortunate to have someone like Julian Price, whose visionary leadership has helped us so many times."

City Attorney Slawter then highlighted the agreement as follows:

A. Requirements imposed upon the Foundation and any developer with whom the Foundation might contract to undertake the development project:

1. **Complete rehabilitation** of the entire Grove Arcade building within five years.

2. The conveyance to the Foundation by the City will be subject to a **preservation agreement** providing for the preservation of the building.

3. Establishment of a **$1 million trust fund** to be held by the Preservation Society to ensure performance under the agreement. Pending performance, the income from the trust funds to be used for site improvement and historic preservation within the City as directed by the Preservation Society. Upon default, the entire trust fund would be so used.

4. **Reversion clause** providing for reversion of property to City if work is not commenced within twelve (12) months and substantial progress made within four (4) years.

5. Foundation to fund a part-time **project coordinator** to work at the direction of the City to coordinate the project.

6. Contribution by the Foundation of **$100,000.00** to the City as a contribution for public improvements.

B. In the event that the Foundation contracts with a developer to complete the project, the following additional obligations are imposed upon the developer:

1. **Lease back to the Foundation** the public market portion of the project for ninety-nine (99) years at a rate of **$1.00**. In the event, however, that the developer is required to complete the rehabilitation of the public market portion of the project, additional rent will be required to be paid by

the Foundation sufficient to amortize the cost of the rehabilitation over a period of thirty (30) years with an interest rate at less than prime.

2. The developer shall make a **$250,000.00 matching grant** to the Foundation.

3. The developer shall be required to **pay to the City any profit** realized from the sale of the building for a period of ten (10) years. In addition, any profit made by the developer for thirty (30) years from the operation of the project above a return of prime minus one percent must be donated to local non-profit organizations for the purposes of facade improvement, creating or maintaining public parks and green spaces, pedestrian improvements, services for children and/or urban or economic development within the City.

4. The developer must establish a **$1 million investment fund** for the purpose of making risk and investment capital available to local businesses. Any return to the developer from that investment in excess of prime minus one percent shall be donated to local non-profit organizations for the same uses set forth in the preceding paragraph.

5. The developer shall **guarantee** the performance obligations of the Foundation and the City shall be a third party beneficiary to any agreement between the Foundation and a developer.

c. In addition to the commitment made by the City in Resolution No. 94-114, the following obligations are imposed upon the City:

1. To pay the cost of **paving** the public streets contiguous to the Arcade.

2. To pay up to $200,000.00 for public improvements for pedestrian access, sidewalks, landscaping, street lighting and street furniture, subject to reimbursement of $100,000.00 of said sum from the Foundation (net cost to City of **$100,000.00**).

Each Councilmember spoke of how appreciative they were for all the efforts and interest taken in this project and each personally thanked all the parties involved.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilwoman Sitnick moved for the adoption of Resolution No. 95-130. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 370

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 11:[illegible] a.m.

Magdalen Bruleson
CITY CLERK

MAYOR

Tuesday - September 19, 1995 - 3:00 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood; City Attorney William F. Slawter; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts and City Manager James L. Westbrook Jr.

RICHMOND HILL PARK

Mr. Irby Brinson, Director of Parks & Recreation, said that last June Vice-Mayor Peterson approached the Parks and Recreation Department to develop a conceptual park design and general observation of cost for the Richmond Hill site. The following basic features were to be incorporated in the design: four soccer fields (225' x 360'); one Little League field (300'); one Little League field (225'); two T-League fields (150'); two driveways (from the south and the west); bicycle and nature trails (access to French Broad River if possible); and parking lots. The approximate cost would be $4,668,000.

On August 1, 1995, Vice-Mayor Peterson, along with representatives of the North Asheville Little League, met with staff to discuss the conceptual design and general costs which were developed by Al Kopf. The Parks and Recreation staff stated that the goals could fit the site only with substantial physical and financial costs, many of which were unknown without further research and engineering. Staff also stated that the land was not conducive for this kind and scale of recreational use because of the tract's steep grades, on and off-site access, and inadequate utility resources. Although Vice-Mayor Peterson and the representatives of the North Asheville Little League acknowledged staff's concerns, they also felt that there were no other realistic land options to serve the northern portion of the City. Staff was then requested to investigate other specific alternatives and an easement which would be necessary to access the property from Richmond Hill Drive.

By use of boards, Mr. Al Kopf, Landscape Designer, then detailed each alternative. Alternate No. 1 consists of four soccer fields (225' x 360'); one Little League field (300'); one Little League field (225'); two T-League fields (150'); two driveways (from the south and the west); bicycle and nature trails (access to French Broad River if possible); and parking lots. The approximate cost would be $4,668,000.

Alternate No. 2 consists of two soccer fields (225' x 360'); one Little League Field (300'); one Little League Field (225'); two T-League fields (150'); one driveway (from the south); bicycle and nature trails (access to French Broad River if possible); and parking lots. The approximate cost would be $2,292,000.

Alternate No. 3 consists of one Little League Field (300' without lighting); one driveway (from the south in gravel); nature trail with picnic tables (unpaved); parking lots (gravel) and restroom (concession stand optional). The approximate cost would be $497,000.

The Parks and Recreation staff feel that a portion of this site should be saved for recreational use. Out of the three alternatives presented, City staff recommends Alternative No. 3, since it represents the minimal impact on the landscape.

Discussion then surrounded ingress and egress from the property, utilities for the site, the future reserved Department of Transportation right-of-way for the northwest connector and what effects that would have on the property, the possibility of a fund-raising campaign for lights, the possibility of a bridge over the railroad in order to access the French Broad River, the terrain, and the pros and cons of using other parks for soccer fields.

Mayor Martin felt that the 180 acres could be developed for low and moderate income housing with stipulations that a park be developed. He felt the area could be developed along those lines, annexed into the City and be put on the tax rolls. Even though he felt ballfields were needed, at this point he could not support any option until a plan for action of the area is developed in the future.

Upon inquiry of Vice-Mayor Peterson about the availability of money for Alternate No. 3, Mr. Bob Wurst, Audit/Budget Director, said that there is only fund balance available at this point in time. The Council always has the option of going back into the Capital Improvements Plan, deleting some of the projects and directing money to be used for this project.

Councilwoman Sitnick suggested some type of cooperative effort with Buncombe County since this area is in the extraterritorial jurisdiction area and since County residents will be using the park.

Councilman Swicegood felt that the City should keep the property for future use. He thought that the area might not be suitable for housing due to the topography and underground rocks. He did feel, however, that Alternate No. 3 could be built, with long range plans to upgrade it in the future. He also suggested looking into the possibility of lease agreements similar to those in Mecklenburg County.

Mr. Brinson said that the Parks and Recreation Advisory Commission and staff would like to bring to Council a priority list of projects in the near future. Councilwoman Sitnick asked that information be included on what would be involved in a City-wide park bond.

Vice-Mayor Peterson was very supportive of starting the project with Alternate No. 3 and phasing the other fields, etc. in. He hoped the project could get started soon.

Councilman McClure was also supportive of building some soccer fields for the youth in our community. He felt that a comprehensive plan was needed.

Councilwoman Sitnick supported recreational activities for the youth, noting that ballfields are not the only recreation activities that should be considered. She felt that some money should be set aside for neighborhood based recreational activities. She felt that planning for future recreational activities is valid and perhaps more public/private cooperation in this area would be good. She felt that we should investigate the options that might bring in tax dollars.

Mr. Samuel Camp, member of the Parks and Recreation Advisory Commission and resident in the Richmond Hill area, felt that the only items needed in that area were some playground equipment and a small ballpark. The area residents do not want to see anymore development. He urged Council to finish renovating the Stephens-Lee gym.

Ms. Dorothy Davis-Dodge hoped Council would just finance the park because she felt it would increase the property values of some of the homes in West Asheville, which she feels has been neglected in the past.

Mr. Dennis King, President of the North Asheville Little League, stated that there is a critical need for fields in the North Asheville area. He said the League would be willing to work with the City to find ways to help with this project, including fund-raising to help put lights in at the fields.

Mr. H. K. Edgerton suggested a public hearing be held on this issue. He also hoped that if a fund-raising effort was organized, that not only the North Asheville ballfields be the concentrated effort, but also include the Stephens-Lee gym renovation project. He suggested looking into the cost of selling the rocks and trees from the site.

When Councilwoman Sitnick asked for more information on the northwest connector, Ms. Patty Joyce, Senior Planner, said that she would be happy to furnish that information to her.

Mayor Martin suggested, and the Council agreed, to having the Parks & Recreation Department and the Planning & Development Department staff look into this matter further, i.e., working with the North Asheville Little League regarding fund-raising efforts, providing information on a City-wide parks bond, obtaining a figure for engineering and actual soil testing in the area, reporting back on the pros and cons of annexing the area, etc., and bring it back to the Council, if possible, at the next worksession.

RESOLUTION ESTABLISHING A NEW POLICY GOVERNING CITY COUNCIL APPOINTMENTS

City Attorney Slawter said that City Council has had prior discussions regarding its policy governing appointments to boards and commissions. The existing policy was established by Resolution No. 92-193 which was adopted on December 2, 1992. This new policy attempts to incorporate the various concerns raised by Council members.

As the changes were outlined by Mr. Slawter, Council either agreed to the change, made additional changes or suggested changes to the draft policy. Mr. Slawter said that all changes would be made prior to final adoption of the policy at the next formal meeting.

Councilwoman Sitnick suggested including in the policy that Council meet with some of the boards or commissions perhaps once a term. The majority of Council felt the Council already had that option and it did not need to be included in the policy.

Councilwoman Sitnick then reminded Council that G.S. 160A-362 gives the County appointees to the Planning & Zoning Commission and the Board of Adjustment the right to vote on matters at issue within the City or within the extraterritorial jurisdiction. She asked Council again to consider whether or not they want to continue to allow County appointees to vote on matters that involve City zoning issues or not.

Councilwoman Field explained the Minority Business Commission ("Commission") appointment process to Mr. H. K. Edgerton noting that the Commission has been given Mr. Edgerton's request to include representation of the NAACP on that Commission.

It was the consensus of Council to proceed with the appropriate action at the next formal meeting.

BUS SHELTER SIGNAGE

Mr. Gerald Green, Senior Planner, said that several months ago City Council adopted a resolution requesting that the Planning staff and the Planning & Zoning Commission ("Commission") take a look at amending our current sign ordinance to allow signs on bus stop shelters.

At the June 7, 1995, Commission meeting, the Commission voted unanimously to deny the wording amendment. The principal reason for their denial seemed to be that this would be allowing the City to have a type of signage not available to others.

Vice-Mayor Peterson said that he was the liaison to the Transit Authority and the purpose of the suggested amendment was to generate some money in order to cut the City's $800,000 subsidy to the Transit Authority.

Council members who spoke felt they would not be able to support the wording amendment and they would accept the recommendation of the Planning & Zoning Commission.

Vice-Mayor Peterson said that he would inform the Transit Authority.

ADDITIONAL FUNDS FOR DOWNTOWN CLEANUP

Public Works Director Mark Combs said that the City Manager has directed him to develop methods to improve the cleanliness of downtown areas, especially during warm weather months where pedestrian/tourist usage is high. City staff determined that increasing the frequency of cleaning from two to three days per week will provide the necessary resources to impact the downtown area's appearance. Of course staff can adjust the cleaning frequency up or down as needed in unusual circumstances.

He recommended the implementation of increasing the present Monday and Thursday schedule to Monday, Wednesday and Friday utilizing existing personnel and overtime pay (April through October - 7 months). However, any long term increase (more than 3 days/week) in scheduling would affect daily sweeping/flushing operations. The estimated cost is $7,500 per year. He estimated the additional cost being $5,500, based on the remaining five months of this fiscal year. To allay any possible problems with the overtime budget, he recommended that the Public Works Department budget be increased by this amount to cover services. He said that no budget amendment would be required because he anticipated a savings from the Fairview sidewalks project. Staff will continue to evaluate and recommend alternative methods (especially using qualified retired personnel) to maximize resources.

As a result of questions raised by Councilman Swicegood about whose responsibility it was to keep sidewalks and curbs free of grass, Mr. Combs said that Asheville does have an ordinance that requires property owners to keep their sidewalks free of debris, however, fines are not normally assessed. He said that he is currently working on an Adopt-a-Street and an Adopt-a-Block concept.

Councilwoman Sitnick suggested Mr. Combs talk to the Police Chief about the possible use of community service folks to help keep the Asheville clean. She also suggested using the youth who are not in school (for various reasons) not to be taken home to do nothing, but obtain some type of authority to have those kids help in this type maintenance for Asheville.

Councilman Swicegood said that the Buncombe Alternatives Program is already in use by Asheville in its Sanitation Division.

At the request of Councilman Swicegood, Mr. Combs said that he is studying the use of a two man crew vs. a three man crew on garbage trucks and he should be able to report his findings to Council in the near future.

Councilwoman Sitnick had a request for additional trash barrels in the downtown area with a early Monday morning pick-up.

At 5:05 p.m., Mayor Martin announced a ten minute break. The meeting resumed at 5:15 p.m.

SALE OF PROPERTY PROCEEDS

Councilman McClure urged Council to have as its number one priority, from the sale of City properties, the purchase of additional property to develop parks. He stressed the need for additional soccer and ballfields in our area and backed his comments up with a letter detailing the substantial economic impact that youth soccer tournaments can bring into an area. He talked about the possibility of a joint venture with various government agencies and non-profit groups to develop the Lake Craig property into a recreation area.

Mayor Martin felt that we did need to move forward with parks in our area, however, we also need to support economic development and infrastructure improvements.

Vice-Mayor Peterson felt Asheville is getting behind in developing parks and needs to move forward.

Councilman McClure recalled that at the joint City/County meeting held on August 15 when he specifically asked Buncombe County if the City bought the Lake Craig property would the County develop the park, the response was yes.

Mr. Irby Brinson, Director of Parks & Recreation, said that if an agreement was worked out with the different groups in the development of the Lake Craig property, there needed to be an understanding amongst all parties what each agency's role would be for the construction of the facility, as well as the maintenance of the area after the park has been completed.

Councilwoman Sitnick said that she was fully in favor of recreational activities. However, she asked Council postpone any action on this matter until she and other Council members have had an opportunity to meet with all of the 5th through 12th grade students in Asheville to find out exactly what they want in terms of recreation. These meetings, which will include surveys, will be held at the end of October.

Councilman McClure felt that since we already know that soccer and ballfields are needed, we should move forward and when other recreational things are identified, they can be included.

Councilman Swicegood felt that before any priorities are given, Council should find out what kind of money the City is talking about from the sale of property proceeds and when that money will be available. He spoke in support of using some of the proceeds for streets.

Councilwoman Field supported more money for streets and sidewalks.

Mr. Samuel Camp hoped that the City would start enforcing the ordinance requiring property owners to clean up their property.

It was the consensus of Council that a plan be developed for the use of the proceeds from the sale of City properties.

CONSENT AGENDA:

Public Auction

Summary: This action authorizes the Purchasing Director to hold a public auction to dispose of motor vehicles, off-road equipment, and other miscellaneous property declared as surplus by various City departments and divisions. The auction will be held Saturday, October 14, 1995, at 10:00 a.m. in the Public Works Complex.

MSD Easement Agreement/West Asheville Park

Summary: MSD desires to rehabilitate a manhole in the City of Asheville park known as "West Asheville Park. This action will authorize the Mayor to execute an easement agreement by and between the City and MSD for manhole rehabilitation at West Asheville Park.

School Crossing Guards

Summary: For the past five years the City has contracted with DAP Security Inc. to provide school crossing guard services. A request for proposal to provide such services to the City for the 1995 school year was solicited by advertisement in the Asheville Citizen-Times and no proposals were received. DAP Security Inc. has proposed to continue to provide services to the City for the school year 1995-96 with a two percent cost increase. This service (22 sites) is during early morning hours and early afternoon hours, Monday through Friday. Funds are allocated in the amount of $74,200.

When Councilman McClure asked if the Police Department had considered using volunteers or retirees as school crossing guards, Police Chief Annarino responded that this is a serious job and an experienced group is needed. They have found that it is more cost effective to hire the school crossing guards than to let Asheville officers perform the work.

FAA Grant Agreement

Summary: This grant, in the amount of $2,428,000, is for the following projects: overlay and groove Runway 16/34; expand ARFF maintenance building; acquire snow removal equipment; and extend Runway 16 safety area, Phase I. The Airport Authority is providing the local match through Passenger Facility Charges.

Amendments to Various Ordinances regarding fees and charges

Summary: The City Council has previously determined to remove fees and charges from the Code of Ordinances and to adopt them in a Fees and Charge Manual. This ordinance would eliminate fees and charges from the Code where they still remain, would grant authority for the fees to be set forth in the Fees and Charges Manual where none now exist and would set forth certain penalties which had been previously included in the Fees and Charges Manual.

Readoption of the Fees & Charges Manual

Summary: City Council initially adopted a Fees and Charges Manual for Fiscal Year 1987/88 and a revised Fees and Charges Manual in Fiscal Year 1988/89. Various changes have been made in subsequent years to fees and charges, without a revised Fees and Charges Manual being adopted. The User Fee Committee of the City Council has considered further changes to existing fees and charges. A revised Fees and Charges Manual for Fiscal Year 19985/96 has been prepared.

Councilwoman Field suggested the Fees & Charges Committee look into the possibility of contractors paying an extra fee if they would like to "reserve an inspector after hours" in order to obtain the proper permits that will allow them to continue with their work first thing the following morning.

Assistant City Manager Spell said that some fees proposed by the Public Works Department will need to be reviewed further by the Fees & Charges Committee. There are also some minor revisions to be made to the Manual. It was the consensus of Council to proceed with appropriate action at the next Council meeting to adopt the revised Fees and Charges Manual with additional information to be presented at the October 3 worksession.

Budget Amendment relative to PACT

Summary: This budget amendment, in the amount of $59,164, is for various items approved in the Police Department Police and Community Together (PACT) and Selective Traffic Enforcement Program (STEP) grants that were not included in the original operating budget. The amendment also increases the operating budget for various administrative costs relating to new ordinances concerning false alarm fees and police escorts, increasing services in property control, new utility charges, and the charges for the refurbishing of two vehicles. The offsetting revenue for these additional appropriations come from the PACT grant that was also not included in the original budget. The grant revenue is anticipated to be more than the new appropriation of $59,164.

Crime Analysis Mapping Project

Summary: The Asheville Police Department is seeking federal support for a project designed to implement a geographic information system which will aid crime analysis activities within the community policing environment of the City. The geographic information will also serve as a community policing evaluation tool. Federal support is requested for 100% of project costs. In the event 100% federal funding is not available, the resolution authorizes a local match of 25% of project costs. The project budget is $31,753. If a local match is required, that amount will be $7,938 (new appropriation required). The project will also serve as a pilot project for the N.C. Department of Crime Control and Public Safety to automate community policing statewide. It is designed to accommodate the small law enforcement agency by being efficient and self contained. The project is one work station using off the shelf applications centered around geographic information systems and incident based reporting and computer mapping. Staff is limited to one data entry clerk. This is a one year project.

Renewal of Fair Housing Amendment

Summary: The Agreement will renew the Memorandum of Understanding (as amended) that was executed with HUD in 1987 which describes

procedures to be followed by HUD and the City in the processing of complaints related to housing discrimination. The renewal of the Agreement will provide for rights and remedies under the amended Fair Housing Law.

Urban Trail Grant

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the N.C. Adopt-A-Trail program in the amount of $2,000. The grant would provide funding for 13 granite markers placed in specific locations in downtown along the Urban Trail to assist walkers to following the self-guided "trail" walk. The grant will provide covering the costs of materials, installation and administration for 13 different sites.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

OTHER BUSINESS:

Water Efficiency Task Force

Councilwoman Sitnick said that the Water Efficiency Task Force should have been recognized for their work in Asheville receiving the Water Use Efficiency Award awarded by the Environmental Protection Agency. She suggested Mayor Martin recognize the WET Force's work by letter.

Wood Walls on Biltmore Avenue

Councilwoman Sitnick suggested that the two wood walls on Biltmore Avenue, which walls are owned by the City of Asheville, be cleaned up. Given the nature of the outline of the walls looking like the top of buildings, she suggested the City contact Ms. Gilley, an art teacher at Asheville High School, and see if she would let her students paint some buildings on those walls.

She noted that the Chamber of Commerce showed interest in placing kiosks around town in order to discourage people from putting flyers on telephone poles and buildings.

School Summit

Councilwoman Sitnick asked that this item be verbatim:

Sitnick - I want to designate a tentative date, before the holidays, to hold a school summit. I want that school summit to be well advertised. I want it to be advertised everywhere and in every way possible. I want to make sure that there are specific people targeted to be notified. Everybody from the School Board to parents, teachers and students of the schools, to anybody involved in any school projects at this time - like the School Foundation Listening Project - Barbara had some good ideas, I'll let her tell you about them. I want the school summit to be open to the public. I want it to take place at 7:00 p.m. as we would a regular City Council community meeting. I would like staff to come up with a place to hold it that would be appropriate. And I would like it to be billed as an opportunity to get things out on the table, to be heard, to be listened to, to have dialog.

McClure - I support what Leni is saying 100%.

Field - I was just thinking that, certainly the cities and schools project which has just put together a board of I think about 50 people in the community, and there's also another school, the Asheville City Schools has another committee that's working on communications between parents, teachers and the administration, and that has about 35 people on it of representatives from every PTO, PTA and all of the schools, the teachers and so forth on there, as well as members of the community. It sounds to me like the issue out there is communication.

Sitnick - I would like all of the ministerial alliances contacted. The African American and I don't know whether you have a method by which you can contact, I don't expect to contact the minister of every single church in town, but maybe there is a board of ministers and they can get the word out to their membership. I want this thing to be advertised so that those folks who choose to come it to can attend it.

Mayor - Maggie, what's your schedule look like for the next two weeks to a month and a half out. How long will it take to make sure everyone is ...

Burleson - Whenever you want to do it, I'll set it up for. Your choice. Do you want it on a Tuesday?

Mayor - I would think a worksession, and we need to get it out in time to make sure everybody is notified. I would want to call Carol Mathews, who is the Chairman, tonight really to advise her of our wishes. ... to go out including the School Board.

Leni - Let me just say this. I have no problem with advising the School Board that we are going to do this. I have absolutely no problem with including them and inviting them. This is not a school summit public gathering for the School Board. This is City Council's effort to participate in a chronic problem in this City that we hear as members of Council, that we hear as parents, and that every candidate running for office is being overwhelmed with. There is a major problem in this City with schools and with parents and students and teachers. And it's not being dealt with. It is our responsibility, as representatives of the people who represent them. And if our only authority with the School Board is to appoint them to the School Board, we need to know who to appoint. The kind of people who can deal with these problems. And if appointing isn't right, this will give us some good food for thought as to whether we ought to consider an elected School Board or an appointed and an elected School Board in combination. But we've got a major problem in this community that's not being dealt with. And it's our responsibility to deal with it.

Burleson - Anytime? If you want to give me a date, I'll work towards that.

McClure - How about November 8. That's a Wednesday and that's a worksession.

Sitnick - When is the election? I want to avoid any political overtones.

McClure - That's after the election.

Peterson - Are we excluding the School Board now or?

Sitnick - They're invited to come as part of the.

Burleson - Obviously they'll get notice of it - as much notice as is going to be done.

Peterson - It's imperative that they be there.

Sitnick - Wednesday is church night.

Mayor - Let me call Carol Mathews and see how we can schedule this and come back.

Sitnick - Wait a minute. We're not scheduling this for Carol or the School Board. We are scheduling this and they are invited. We've been doing this now for four months and I'm at the end of my patience ... here. We waited until they responded, we waited until they had more meetings and we've been waiting and waiting and waiting. But Wednesday night is church night and I don't think that's a good idea. I mean I wouldn't even mind having it on a Friday night.

McClure - Friday's football and you're not going to get many there.

Sitnick - How about a Thursday night? There are no great nights.

Mayor - I will be glad to call Carol and talk to her about this and I think it's necessary to include the School Board.

Sitnick - All I'm saying is I used the word "tentative" and you'll forgive me but some of you were talking so you didn't hear me say it. Let's do a tentative date and then inform the School Board. I don't want to call and ask them. I want to inform them. This is our thing, not theirs. They've done their thing.

Burleson - If it's tentative though, Leni, if you want as much notice out as possible, I need to have a firm date.

Sitnick - The reason I say tentative is because we can set a date right now, but I just wanted to make sure that we look at everyone's calendars and make sure there's nothing major going on in the City at that time.

Swicegood - I'll make a motion for November 9 at 6:00 p.m. sharp. How about that?

Burleson - Are you sure you want it at 6:00 p.m.? I thought you wanted 7:00 p.m. Leni.

Swicegood - 7:00 p.m. is fine.

Sitnick - 7:00 p.m. I'm honored to have you make the motion.

Burleson - And it will be up to me to find a place or do you have any suggestions?

Sitnick - A school summit.

Burleson - Would you like to have it at a school?

Peterson - Yes. Asheville High is good. It's centrally located. In the auditorium.

McClure - We should be able to get that. If you'll call Larry Liggett.

Burleson - Asheville High Auditorium is where you want it?

Sitnick - Let's just make sure that there are no major events going on in this City that will conflict with that. You know, like Travis Tritt.

Field - Maybe you and Rock and Maggie get together and sit down and give her a little better direction.

Mayor - I will call Carol.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:00 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - September 26, 1995 - 5:15 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman McClure gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF OCTOBER 1-7, 1995, AS "RESIDENTS' RIGHTS WEEK"

Mayor Martin proclaimed the week of October 1-7, 1995, as "Residents' Rights Week" in the City of Asheville. He presented the proclamation to Ms. Mary Ann Demelfy, Chair of the Buncombe County Nursing Home Advisory Committee. Ms. Demelfy briefed the Council on some activities that would take place during the week.

Mayor Martin recognized some members of the Domiciliary Care Committee who was present at the meeting.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CLOSING A PORTION OF A 16' ALLEY LOCATED OFF OF LODGE STREET AT McDOWELL STREET

RESOLUTION NO. 95-139 - RESOLUTION CLOSING A PORTION OF A 16' ALLEY LOCATED OFF OF LODGE STREET AT McDOWELL STREET

Mayor Martin opened the public hearing at 5:17 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mark Combs, Director of Public Works, said that a petition has been received from Benson Slosman, Sandra Slosman, Marvin Slosman and Irene Slosman requesting that a portion of an unnamed alley running off of Lodge Street be permanently closed to public use.

The portion of the alley requested to be closed extends into the property owned by the petitioners and serves no other property owners. The alley is presently utilized as parking for a business. Partial access into McDonalds is provided on the property east of the alley. Closing of the alley would not deprive property owners in the area of reasonable means of ingress and egress to their property.

The Public Works staff recommends the portion of the alley running into the property owned by the petitioners be permanently closed to public use.

Mayor Martin closed the public hearing at 5:18 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption Resolution No. 95-139. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 371

B. PUBLIC HEARING RELATIVE TO FILING AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION FOR THE CITY OF ASHEVILLE'S ANNUAL TRANSIT OPERATING ASSISTANCE GRANT

RESOLUTION NO. 95-140 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION

Mayor Martin opened the public hearing at 5:19 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transit Planner, said that this resolution will authorize the filing of an application with the Federal Transit Administration for the City of Asheville's annual transit operating assistance grant. This grant will assist in offsetting the operating cost of the Asheville Transit Authority. These funds will be used for operating the fixed route transit system and assists in funding the City's comparable paratransit program operated through "BOOST."

Mayor Martin closed the public hearing at 5:20 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption Resolution No. 95-140. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 373

C. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING REGULATIONS REGARDING FEES AND CHARGES

ORDINANCE NO. 2239 - ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE WITH REGARD TO FEES AND CHARGES - ZONING REGULATIONS

Mayor Martin opened the public hearing at 5:20 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning & Development Director, said that Appendix A of the Code of Ordinances of the City of Asheville (Zoning Ordinance) now provides in Section 30-11-2 that the application fee for group development review is $100. The City Council has previously determined that fees should be included in a Fees and Charges Manual, rather than in the Code of Ordinances. This amendment would remove the amount of the fee from the Code of Ordinances. A revised Fees and Charges Manual will be considered for adoption later at this meeting and will set the fee.

Section 30-13-9 of Appendix A of the Code of Ordinances sets forth a requirement for a certificate of appropriateness for erection of, alteration of, restoration of, moving or demolishing a building or other structure within a historic district. This amendment would provide that a fee for the certificate of appropriateness may be established in the Fees and Charges Manual. The revised Fees and Charges Manual provides that no fee will be charged at this time.

Mayor Martin closed the public hearing at 5:21 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption Ordinance No. 2239. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2239 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 214

D. PUBLIC HEARING TO REZONE 29 JOHNSON DRIVE FROM R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Martin opened the public hearing at 5:22 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mayor Martin said that Mr. George Kaltsunis, petitioner, is sick and has requested that this public hearing be continued.

Councilwoman Field moved to continue the public hearing until October 17, 1995, at 5:00 p.m., pursuant to the petitioner's request, without further advertisement. This motion was seconded by Councilman Watts and carried unanimously.

E. PUBLIC HEARING TO REZONE TWO LOTS AT 9 EAST STARNES COVE ROAD FROM CS COMMERCIAL SERVICE TO R-3 MEDIUM DENSITY RESIDENTIAL

ORDINANCE NO. 2240 - AN ORDINANCE TO REZONE TWO LOTS AT 9 EAST STARNES COVE ROAD FROM CS COMMERCIAL SERVICE TO R-3 MEDIUM DENSITY RESIDENTIAL

Mayor Martin opened the public hearing at 5:23 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this property is approximately 1.67 acres. The lots are located on East Starnes Cove Road which is a narrow residential street that has been closed as a through street. Each lot has an existing residential structure. The 2010 plan recommends that this area be medium density residential. The subject property is surrounded on all sides by residential.

The Planning staff reviewed the rezoning request and recommended approval of the rezoning of the two lots at 9 East Starnes Cove Road from CS Commercial Service to R-3 Medium Density Residential.

At the Planning & Zoning Commission's public hearing held on September 6, 1995, the Commission voted unanimously to recommend the rezoning.

Mayor Martin closed the public hearing at 5:24 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption Ordinance No. 2240. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2240 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 217

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 95-141 - RESOLUTION OF INTENT TO SUPPORT THE DEVELOPMENT OF LAKE CRAIG PROPERTY AS A RECREATION AREA

Mr. Irby Brinson, Director of Parks and Recreation, said that the City of Asheville is interested in working jointly with various governmental agencies and non-profit groups to develop the Lake Craig Property into a recreation area. The property consists of approximately 69 acres, 99% of which is in the floodway, which makes it only good for a couple of uses - recreational and agricultural.

He said a group including the City of Asheville, Buncombe County, RiverLink, Ducks Unlimited, Western North Carolina Soccer Foundation, and the Western North Carolina Nature Center have been meeting to develop an action plan for the Lake Craig property. The Lake Craig property is located in the East Asheville area adjacent to Recreation Park and the Nature Center. The current owner of the Lake Craig Property is interested in selling the land for the purpose of developing a recreation facility. The current plan would include soccer fields, a baseball/softball complex, a river access, a refuge for native animals, parking areas, and restroom facilities. The City of Asheville is willing to purchase the property as their portion of support of this project with the commitment that the other agencies would equally support the development of the facilities. A task force has been formed which includes representatives from the above mentioned agencies. This task force has started the discussion process and has been meeting over the past few months. This resolution is evidence of the City's commitment to this project and its desire to become a vital part of the planning of and use of the Lake Craig Property. The City further desires an understanding between all parties in regard to each agency's role for the construction of this facility as well as the maintenance of the area after the park has been completed.

The Parks and Recreation Department recommends Council's approval of the resolution of intent to work cooperatively with various agencies in the development, joint use, and maintenance of the Lake Craig Property. In addition, staff recommends that no funding for this project be allocated until staff has been involved in the planning process, a commitment from all parties for equal funding participation has been agreed upon, and a commitment for joint use by all parties has been made.

Upon inquiry of Councilwoman Field, Mr. Brinson said that it would be a lot less expensive to develop this property (opposed to some other recreational property Council has been looking at) because it is in the floodway and it is relatively flat which would require very little grading.

Councilman McClure said that this is an ideal location for recreational activities, especially soccer fields for tournaments, because the Nature Center, Recreation Park, major hotels, and major highway accesses are in that general vicinity. He was in total support of this project noting that kids who are involved in sports activities have higher grades, are less likely to drop out of school, etc.

Vice-Mayor Peterson and Councilman Watts also recognized the real need for soccer fields in the City which will allow Asheville to host soccer tournaments that will bring in needed economic development.

Upon inquiry of Councilwoman Field about a concern raised to her about the Nature Center's parking problems, Mr. Brinson said that those concerns could be looked at as plans are being developed.

Councilman McClure said that the City's costs can be defrayed a good deal because he has already been in contacted by some people in the community that are willing to help.

Mr. Ralph Bishop was concerned about how much money the City would be spending on this property, which is located in the floodway, because when a big flood comes, everything will float down the Swannanoa River.

Mayor Martin noted that a price has not yet been agreed upon while noting that there will be no buildings built in the floodway.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman McClure moved for the adoption of Resolution No. 95-141. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 374

V. CONSENT:

At the request of Councilwoman Sitnick, Item A was removed from the Consent Agenda in order to be discussed.

At the request of Councilman Swicegood, Items E and F were deleted from the Consent Agenda to be placed on the October 17, 1995, agenda.

At the request of Councilwoman Field, Item J was removed from the Consent Agenda in order to be discussed.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 12, 1995, AND THE WORKSESSION HELD ON SEPTEMBER 19, 1995

Item pulled to be discussed below.

B. RESOLUTION NO. 95-142 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES, OFF ROAD EQUIPMENT AND OTHER SURPLUS PROPERTY AT PUBLIC AUCTION

Summary: This action authorizes the Purchasing Director to hold a public auction to dispose of motor vehicles, off-road equipment, and other miscellaneous property declared as surplus by various City departments and divisions. The auction will be held Saturday, October 14, 1995, at 10:00 a.m. in the Public Works Complex.

RESOLUTION BOOK NO. 22 - PAGE 375

C. RESOLUTION NO. 95-143 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, N.C., FOR MANHOLE REHABILITATION AT WEST ASHEVILLE PARK

Summary: MSD desires to rehabilitate a manhole in the City of Asheville park known as "West Asheville Park. This action will authorize the Mayor to execute an easement agreement by and between the City and MSD for manhole rehabilitation at West Asheville Park.

RESOLUTION BOOK NO. 22 - PAGE 376

D. RESOLUTION NO. 95-144 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE CONTRACT WITH DAP SECURITY INC. FOR SCHOOL CROSSING GUARDS ON BEHALF OF THE CITY OF ASHEVILLE

Summary: For the past five years the City has contracted with DAP Security Inc. to provide school crossing guard services. A request for proposal to provide such services to the City for the 1995 school year was solicited by advertisement in the Asheville Citizen-Times and no proposals were received. DAP Security Inc. has proposed to continue to provide services to the City for the school year 1995-96 with a two percent cost increase. This service (22 sites) is during early morning hours and early afternoon hours, Monday through Friday. Funds are allocated in the amount of $74,200.

RESOLUTION BOOK NO. 22 - PAGE 377

E. RESOLUTION OF INTENT TO CLOSE NICHOLS STREET AND SETTING A PUBLIC HEARING ON OCTOBER 31, 1995

Item pulled to be placed on the October 17, 1995, agenda.

F. RESOLUTION OF INTENT TO CLOSE AN ALLEY OFF ASTON STREET AND SETTING A PUBLIC HEARING ON OCTOBER 31, 1995

Item pulled to be placed on the October 17, 1995, agenda.

G. RESOLUTION NO. 95-145 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY OF ASHEVILLE, A FEDERAL AVIATION GRANT AGREEMENT, 3-37-0005-19

Summary: This grant, in the amount of $2,428,000, is for the following projects: overlay and groove Runway 16/34; expand ARFF maintenance building; acquire snow removal equipment; and extend Runway 16 safety area, Phase I. The Airport Authority is providing the local match through Passenger Facility Charges.

RESOLUTION BOOK NO. 22 - PAGE 378

H. **RESOLUTION NO. 95-146 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE A GRANT WITH THE N.C. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY IN SUPPORT OF A CRIME ANALYSIS MAPPING PROJECT**

Summary: The Asheville Police Department is seeking federal support for a project designed to implement a geographic information system which will aid crime analysis activities within the community policing environment of the City. The geographic information will also serve as a community policing evaluation tool. Federal support is requested for 100% of project costs. In the event 100% federal funding is not available, the resolution authorizes a local match of 25% of project costs. The project budget is $31,753. If a local match is required, that amount will be $7,938 (new appropriation required). The project will also serve as a pilot project for the N.C. Department of Crime Control and Public Safety to automate community policing statewide. It is designed to accommodate the small law enforcement agency by being efficient and self contained. The project is one work station using off the shelf applications centered around geographic information systems and incident based reporting and computer mapping. Staff is limited to one data entry clerk. This is a one year project.

RESOLUTION BOOK NO. 22 - PAGE 379

I. **RESOLUTION NO. 95-147 - RESOLUTION AUTHORIZING THE SIGNING OF A RENEWAL OF THE MEMORANDUM OF UNDERSTANDING WITH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO FURTHER FAIR HOUSING**

Summary: The Agreement will renew the Memorandum of Understanding (as amended) that was executed with HUD in 1987 which describes procedures to be followed by HUD and the City in the processing of complaints related to housing discrimination. The renewal of the Agreement will provide for rights and remedies under the amended Fair Housing Law.

RESOLUTION BOOK NO. 22 - PAGE 380

J. **RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY**

Item pulled to be discussed below.

K. **RESOLUTION NO. 95-148 - RESOLUTION DIRECTING THE CITY COUNCIL TO APPROVE SUBMISSION OF A GRANT REQUEST FROM THE NORTH CAROLINA ADOPT-A-TRAIL FOR THE URBAN TRAIL**

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the N.C. Adopt-A-Trail program in the amount of $2,000. The grant would provide funding for 13 granite markers placed in specific locations in downtown along the Urban Trail to assist walkers to following the self-guided "trail" walk. The grant will provide covering the costs of materials, installation and administration for 13 different sites.

RESOLUTION BOOK NO. 22 - PAGE 381

L. **RESOLUTION NO. 95-149 - RESOLUTION ADOPTING A REVISED FEES AND CHARGES MANUAL**

Summary: The City Council initially adopted a Fees and Charges Manual for Fiscal Year 1987/88 and a revised Fees and Charges Manual in Fiscal Year 1988/89. Various changes have been made in subsequent years to fees and charges, without a revised Fees and Charges Manual being adopted. The User Fee Committee of the City Council has considered further changes to existing fees and charges. A revised Fees and Charges Manual for Fiscal Year 19985/96 has been prepared.

RESOLUTION BOOK NO. 22 - PAGE 382

M. RESOLUTION NO. 95-150 - RESOLUTION ESTABLISHING A NEW POLICY GOVERNING CITY COUNCIL APPOINTMENTS

Summary: The City Council has had prior discussions regarding its policy governing appointments to boards and commissions. The existing policy was established by Resolution No. 92-193 which was adopted on December 2, 1992. This new policy attempts to incorporate the various concerns raised by Council members.

RESOLUTION BOOK NO. 23 - PAGE 383

Councilwoman Sitnick moved for the adoption of the Resolutions & Motions Consent agenda. This motion was seconded by Councilman McClure and carried unanimously.

ITEMS PULLED FROM THE CONSENT AGENDA FOR DISCUSSION

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 12, 1995, AND THE WORKSESSION HELD ON SEPTEMBER 19, 1995

Councilwoman Sitnick asked that on page 9 of the September 12, 1995, City Council minutes a typographical error be corrected.

Councilwoman Sitnick moved to approve the minutes of the meetings held on September 12 and 19, 1995, with the correction noted above. This motion was seconded by Councilwoman Field and carried unanimously.

B. RESOLUTION NO. 95-151 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Mayor Martin said that the term of Charles Worley expires on September 30, 1995. This resolution will appoint Kevin Green to serve a three year term, term to expire September 30, 1998, or until his successor is appointed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilman Watts moved for the adoption of Resolution No. 95-151. This motion was seconded by Vice-Mayor Peterson and carried on a 6-1 vote, with Councilwoman Field voting "no".

RESOLUTION BOOK NO. 22 - PAGE 388

Ordinances:

A. ORDINANCE NO. 2241 - ORDINANCE AMENDING ORDINANCE NO. 1855, AS PREVIOUSLY AMENDED, REGARDING LEVY AND COLLECTION OF BUSINESS LICENSE TAXES

Summary: This ordinance will amend the existing business license taxes to increase the amounts for certain advertisements, manufacturers, retail and wholesale merchants, and service establishments and businesses.

ORDINANCE BOOK NO. 15 - PAGE 219

B. ORDINANCE NO. 2242 - ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE WITH REGARD TO FEES AND CHARGES

Summary: The City Council has previously determined to remove fees and charges from the Code of Ordinances and to adopt them in a Fees and Charge Manual. This ordinance would eliminate fees and charges from the Code where they still remain, would grant authority for the fees to be set forth in the Fees and Charges Manual where none now exist and would set forth certain penalties which had been previously included in the Fees and Charges Manual.

ORDINANCE BOOK NO. 15 - PAGE 223

C. ORDINANCE NO. 2243 - BUDGET AMENDMENT RELATIVE TO PACT

Summary: This budget amendment, in the amount of $59,164, is for various items approved in the Police Department Police and Community Together (PACT) and Selective Traffic Enforcement Program (STEP) grants that were not included in the original operating budget. The amendment also increases the operating budget for various administrative costs relating to new ordinances concerning false alarm fees and police escorts, increasing services in property control, new utility charges, and the charges for the refurbishing of two vehicles. The offsetting revenue for these additional appropriations come from the PACT grant that was also not included in the original budget. The grant revenue is anticipated to be more than the new appropriation of $59,164.

ORDINANCE BOOK NO. 15 - PAGE 237

Councilman McClure moved for the adoption of the Ordinance consent agenda. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, the Ordinance Consent agenda passed on its first and final reading.

VI. OTHER BUSINESS:

A. WATER BOND UNDERWRITERS

Councilwoman Sitnick moved that "we accept staff recommendation that Alex Brown be senior manager for the water bonds issue if they will meet the low bid."

Mayor Martin said that this isn't something that needs to have Council approval. We can make our wishes known, but he didn't think it is officially required.

City Manager Westbrook said that the meeting where the underwriters were discussed, the Council decided on the three underwriters. During that same discussion Council informally decided amongst themselves that they would informally discuss who was to be the lead underwriter and let the staff know. He felt this was the point Councilwoman Sitnick is bringing up. There is nothing to prevent Council from taking a formal action.

Councilwoman Field seconded Councilwoman Sitnick's motion.

Mayor Martin said that he and Councilman McClure spoke today and that he and Councilman McClure were the ones who were going to get together and make this decision. He had no problem with Council making the decision.

Councilman McClure said that he had not really changed his position. "I thought, I'm not trying to undermined staff but Smith-Barney came in, the Robinson-Humphrey group, came in with a proposal - their bond costs less, the management fee was zero and they also cover the southeastern United States and they have a local office here. My position is that I would prefer to go that way and that's the same thing I told you earlier today."

When Councilman Swicegood asked about Smith-Barney, Councilman McClure said that Smith-Barney and Robinson-Humphrey are the same people.

Mayor Martin said that he would prefer to go with staff and he didn't think it's something Council has to get into a big debate about.

Councilwoman Sitnick said that "the basis points over the long term are not as important as performance. Alex Brown got the highest points in the RFP and the presentation. Actually no RFP was mandated. They could have been picked on merit. They are willing to negotiate the management fee because it's inconsequential. Otherwise Robinson-Humphrey wouldn't have charged nothing. I think we had four consultants that we hired to look into this and they all came up with the same recommendation. They've done more water bonds and sewer bonds, Alex Brown has, and I think that we should go with staff's recommendation. When you tend to pick a local company and this is the first time a local company has been an issue, but when you're underwriting bonds, a local company has a tendency to do what they call 'hogging the bonds' and you can get better retail disbursement and better interest rates if you go..."

Councilman McClure said "that might be true, but Robinson-Humphrey is really not a local company. They have a local office and they're the largest in the southeastern United States with more distribution. The more distribution, and the Mayor can tell you this, the larger the distribution, the cheaper the cost to the City is going to be and that's what we're after. Alex Brown does not have that distribution. They have offices in Charlotte, Winston-Salem, and I believe Greensboro and Raleigh, but they are not nearly as big as Smith-Barney. It's Smith-Barney, Robinson-Humphrey was not the person here. It always bothers me that somebody gives a high figure and then they're willing to come in after the fact and renegotiate in order to get it. Why didn't they give us the best price going forward."

Councilman Sitnick said that "they didn't come in with the highest figure, I mean, the lowest figure was NationsBank. So if we're going with lowest figures..."

Councilman McClure said that he had a problem with NationsBank relative to their statement saying that they're getting out of the market.

Councilwoman Sitnick said that she had a problem with NationsBank for other reasons.

Councilman McClure said that "as far as whether Alex Brown, they say they've done more, but I also have information that shows that Robinson-Humphrey has done more in the State of North Carolina than Alex Brown. And that's debatable. But all I'm saying is that this is my position and you are welcome to either vote it up or vote it down. That's just my position on this."

Councilwoman Sitnick said that "four separate people said that Alex Brown as senior manager would be the best thing for the City. You know I'm not an investment banker. I think commercial banking is different than investment banking, but be that as it may, I've talked to a number of folks in other cities in the State regarding this issue - not these specific companies, but just the basis of this kind of economic decision. Alex Brown has been the lead on these kinds of water and sewer bonds, consistently the lead. Highest points."

Mayor Martin felt that either firm will do well in this situation. They are both experienced. He didn't think one is necessarily head-and-shoulders above any of the others. He deals with these things all the time. If it comes to a vote, he would vote to go with staff. We need to get this bond out into the public while the rates are favorable for the City project.

Councilwoman Sitnick then made her motion again to accept staff recommendation that Alex Brown be senior manager for the water bonds issue if they will meet the low bid. Mayor Martin noted that Councilwoman Field did second the motion. By a raising of hands, the motion was defeated on a 3-4 vote, with Vice-Mayor Peterson, and Councilmen McClure, Swicegood and Watts voting "no."

Councilman McClure moved that Smith-Barney, Robinson-Humphrey, be the lead broker for the water bond issue. This motion was seconded by Councilman Swicegood. By a raising of hands, the motion carried on a 4-3 vote, with Mayor Martin and Councilwomen Field and Sitnick voting "no."

B. REQUEST FOR TIME ON WORKSESSION

Councilwoman Sitnick "moved to schedule one hour for the October 17 Pre-Council meeting to review and discuss the final Leni's list that I gave out several weeks ago so I can be informed by Council which items they feel are worth discussion and which items they feel are not worth discussion."

Councilwoman Sitnick said that the above is only a request.

C. NUCLEAR WASTE TRANSPORTATION THROUGH ASHEVILLE

Councilwoman Sitnick also requested at the October 17, 1995, meeting that Council consider the resolution that she handed out at a prior meeting regarding the issue of nuclear waste transportation.

D. RICHMOND HILL PARK

Vice-Mayor Peterson reported that he has been meeting with the North Asheville Little League and soccer groups and they have organized a fund raising effort which will go to corporations seeking donations for the baseball fields at Richmond Hill. The figure they were given was $497,000 and they are currently working to cut the budget down because there were a lot of items on there that a better price might be found.

Councilman McClure asked if Council was still in agreement in proceeding with Option 3. Mayor Martin responded that Council will be looking at a complete picture, with Lake Craig, Richmond Hill, etc., and staff will come back with some recommendations. However, Council was looking at Option 3.

Councilman McClure supported Option 3 at Richmond Hill Park 100%.

E. RALPH BISHOP

Mr. Ralph Bishop was concerned about the Mayor not reading the items on the consent agenda. He stated that he did not want to read them, he wanted to hear them read.

F. CLAIMS

The following claims were received by the City of Asheville during the week of September 7-13, 1995: Johnnie McCorkle (Parks & Recreation), Tonya Capers (Streets), Nick Apostolopoulos (Water), Howard Huffman (Streets), Murphy Robert Jaramillo (Water) and Nathan Villarreal (Streets). These claims have been referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:56 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - October 3, 1995 - 1:45 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson (arrived in meeting at 2:17 p.m.); Councilwoman Barbara Field, Councilman Gary McClure, Councilman Joseph Carr Swicegood (arrived in meeting at 2:22 p.m.) and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilwoman Leni Sitnick

CLOSED SESSION

At 1:45 p.m., Councilwoman Field moved to go into closed session to consult with the City Attorney in order to preserve the attorney-client privilege as authorized by G.S. 143-318.11 (a) (3). This motion was seconded by Councilman McClure and carried unanimously.

At 2:00 p.m., Councilman Watts moved to come out of closed session. This motion was seconded by Mayor Martin and carried unanimously.

WATER EFFICIENCY TASK FORCE UPDATE

Mayor Martin recognized Mr. Paul Braese, Chairman of the Water Efficiency Task Force ("WET Force"), and members of the WET Force that were in the audience. He commended the WET Force for the award received from the Environmental Protection Agency on water efficiency. On behalf of the City Council, he thanked the members for their hard work and achievements accomplished.

Mr. Paul Braese explained that the WET Force is a subcommittee of the Asheville-Buncombe Water Authority. He said that their mission is to research and study the most efficient use of water as a utility and natural resource for the citizens of Asheville and Buncombe County, and to present its recommendations to the Water Authority. The WET Force also educates the public to be self-motivated in water efficiency ethics. He then outlined the program components as follows: - residential retrofit kits; - industrial/ commercial assessments; - hotel/hotel retrofit kits; and - public education/school education. He said that their goal is now to refine the residential program.

Mr. Braese answered various questions from Council as they related to the type products the WET Force recommends and their excellent education program.

Mr. Braese praised the WET Force and the staff for their work on these programs.

CITY OF ASHEVILLE MISSION STATEMENT

City Manager Westbrook said that the Total Quality Management (TQM) effort of the City is made up of four principles: respect for people, customer satisfaction, decision-making by fact and continuous improvement. The City's name for its TQM program is the Legacy of Excellence (LX). The LX program aims at integrating all aspects of the organization through a model made up of three components: excellence teams, goal management and excellence in daily work. A part of the goal management component is the need for the governing body to adopt a current mission statement. A mission statement is the "bread and

butter" purpose of the organization; its essential reason for being. Missions are usually stated in product and/or service terms. In other words, they are the statement of what business we are in. We believe the following mission statement captures the essence of what the City's mission should be. "The City of Asheville will enhance to the quality of life for its customers (citizens, employees and visitors) by providing professional and efficient services. In order to do this, the City of Asheville will respond to customer needs, provide for employee development, serve as a partner in the community and be a leader in Western North Carolina."

Councilwoman Field suggested deleting the words "In order to do this," in the second sentence. It was the consensus of Council to delete the beginning phrase as recommended by Councilwoman Field.

City Manager Westbrook then answered several questions from Councilman Swicegood related to the City's TQM process.

Upon inquiry of Vice-Mayor Peterson, City Manager Westbrook said that he would provide Council with an update as to the LX team working in the Sanitation Division.

When Mr. H. K. Edgerton asked if there was any kind of incentive program for City employees when they save the City money, City Manager Westbrook said that the City does have a merit system and a critical incident bonus system in place.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

MARNE ROAD REZONING

Mr. Gerald Green, Senior Planner, said that the residents of Marne Road, located in the Kenilworth neighborhood, have presented a petition requesting the rezoning of 21 lots from R-2 to R-1A. All of the lots are located on Marne Road. Section 30-11-1 (c) of the zoning ordinance permits residents of an area to petition for rezoning of the area if the petitioners "comprise a minimum of 51% of the property owners in the area and who own at least 51% of the property within the area to be considered." The petitioners meet those standards. Nineteen of the lots are developed with single family homes and the other two lots are vacant. All of the lots meet the minimum size requirements for the R-1A District.

The current R-2 zoning permits single family and multi-family development at a density of up to six units per acre, with a minimum lot size of 10,000 square feet. The requested R-1A zoning permits only single family development at a density of eight units per acre, with a minimum lot size of 5,400 square feet. Both zoning districts also permit non-residential development such as churches, schools, and family care homes. The property owners are requesting the rezoning to protect the single family status of their neighborhood.

The zoning ordinance requires that rezoning requests initiated by petitions such as this request be reviewed first by City Council. Council then directs the Planning Department staff as to how to proceed with this rezoning request. The options available to Council are to forward the request to the Planning & Zoning Commission for their consideration, to recommend that no further action be taken on the request, or to table the request for additional study and/or

information. If the request is sent to the Planning & Zoning Commission for consideration, they will review it, make a recommendation, and forward the recommendation to City Council for a final decision.

The Planning Department staff recommends that City Council forward this rezoning request to the Planning & Zoning Commission for review and a recommendation.

Upon inquiry of Councilman McClure, Mr. Green said that the City allows the persons petitioning to define the area requesting to be rezoned.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

ORDINANCE PERMITTING THE POSTING OF A PROHIBITION AGAINST CARRYING A CONCEALED HANDGUN IN LOCAL GOVERNMENT BUILDINGS, THEIR APPURTENANT PREMISES AND PARKS

Police Mayor Jay Breedlove said that House Bill 90, Chapter 398 of the 1995 Session Laws, allows a unit of local government to enact an ordinance to permit the posting of a prohibition against carrying a concealed handgun into local government buildings or onto other City premises and parks. To ensure a handgun free environment on City property, City Council must enact an ordinance which will allow the City Manager to post all City property prohibiting the carrying of a concealed weapon on any City property. This ordinance authorizes the City Manager to post all City property prohibiting the carrying of a handgun on City property. Once enacted, violators will be guilty of a misdemeanor under G.S. 14-145.10 (c).

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

RICHMOND HILL PROPERTY

Geotechnical Results

Mr. Dick Meehan, Parks Superintendent, said that the Parks and Recreation Department was asked to obtain cost figures for engineering, geotechnical boring and testing for Richmond Hill Park - Alternative 3.

In order to respond to the City Council as quickly as possible, staff obtained a proposal for geotechnical exploration from Law Engineering and Environmental Services, Inc. since they are currently under an hourly bid contract with the Parks and Recreation Department. Staff met with Bernie Kessel, P.E., to discuss the proposed project and requested a proposal which would provide the necessary information to ascertain the feasibility of developing the site as proposed. Staff requested that Alternative 3 (one 300' field with a restroom, drive, and parking lot) be analyzed. Staff also asked that a portion of Alternative 2 (baseball field complex with one 300' field, two 225' fields, one 150' field and a restroom, drive, and parking lot) also be considered as an additional option.

On September 28, 1995, Law Engineering and Environmental Services submitted a proposal with a scope of services and fee estimate. Site boring, testing, and report recommendations for Alternative 3 would cost $4,300. Alternative 2 would cost $6,800. The City Engineering Department would assist by surveying the test boring sites and performing the necessary engineering to determine the feasibility of the

site design as proposed, especially with the goal of balancing the cut and fill on the site. The Parks and Recreation Department would clear the vegetation for access necessary for testing.

Depending upon which alternative is selected by the City Council, staff recommends that the sufficient funds be appropriated for testing and analysis.

Councilman Swicegood felt that it would be a good idea to solicit other companies for an estimate.

Councilwoman Field and Mr. Meehan felt that there was only probably two other companies that do this type of work in our area and the prices would be very close to that of Law Engineering and Environmental Services.

When Councilman Swicegood asked about the time it would take to complete the work, Mr. Meehan felt that the City could probably have the report in approximately two weeks.

Mr. H. K. Edgerton asked if the City would salvage any of the rock, etc., that was found on the property. Mr. Meehan stated that this is only boring and the report will tell the City what kind of rock is there. However, if there's too much rock on the property, he wouldn't recommend the City proceeding with the park project.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting to appropriate $6,800 for testing and analysis.

Pros & Cons of Annexation

Ms. Patty Joyce, Senior Planner, said that provisions outlined in G.S. 160A-58.7 Annexation of Municipal Property state that a governing board "may initiate annexation of property not contiguous to the primary corporate limits and owned by the city by adopting a resolution stating its intent to annex the property, in lieu of a petition." The property must satisfy the requirements of G.S. 160A-58.1 which requires the noncontiguous area proposed for annexation meet certain standards.

Staff has reviewed the standards of a noncontiguous (satellite) annexation and feels that the criteria can be met. Those criteria are as follows:

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city. **The Richmond Hill property lies approximately 60 feet from the primary corporate limits.**

2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than tot he primary corporate limits of the annexing city. **The Richmond Hill property is not closer to the corporate limits of another city.**

3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides with its primary corporate limits. **City departments will be contacted for a**

description of service they can provide to the Richmond Hill property. No problems are anticipated since the corporate limits are just 60 feet away.

4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-367, all of the subdivision must be included. **No subdivision exists.**

5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing City. **If the land area of the Richmond Hill property (180 acres) were added to the area of all other existing satellite areas (8.54 acres), the total land area of all satellite annexations would be 188.54 or .7%. (The area of the City is 40.6 square miles or 25,984 acres).**

If the City Council wishes to annex city owned property, they would first adopt a resolution containing an adequate description of the property and fix a date for a public hearing on the question of annexation. If, after the public hearing is held, City Council finds that annexation is in the public interest, it may adopt an ordinance annexing the property. The ordinance maybe be made effective immediately or on any specified date within six months from the date of passage.

At this time staff sees no reason the property could not be annexed according to state laws. There are essentially two reasons why it would be advisable to annex city owned property:

1. If any public improvements (investments) are made to the property it would be in the City's best interest to patrol and protect the property through its own City police and fire departments. Additionally all grading and building permits for City projects should originate within the City's engineering and inspections departments and not the County's, as would be required if it remained in the County. For some of these reasons, a precedent was set when the City-owned Ray Kisiah Park (formerly West Chapel Road Park) was annexed into the City last year.

2. If any private investments were proposed for the property, the City could only collect privilege license fees and tax revenue if it were within the City of Asheville. And, while the City could procedurally review any development plans for the property, because it lies within the City's extra-territorial jurisdiction, grading and public permits would be issued and enforced by the County if the land were not within Asheville's corporate limits.

Councilman McClure said that if the City puts any money into the property it needs to be part of the City; however, it might be better to wait until the City determines what it's going to do with the property before it annexes it.

It was the consensus of Council to proceed with appropriate action to start annexation proceedings at the next formal Council meeting.

REPORT ON WALL STREET PARK

City Manager Westbrook said that additional information is being compiled and this item will be brought up at the next worksession.

CONSENT AGENDA:

Budget Amendment relative to Human Relations Skills Training

Summary: This budget amendment, in the amount of $20,500, is to fund Human Relations Skills Training for police employees. The offsetting revenue is provided by the N.C. Dept. of Crime Control and Public Safety.

Service Agreement Renewal with Motorola

Summary: In August of 1994, the City of Asheville entered into a new service agreement with Motorola Communications and Electronics Inc. for the maintenance of the City's radio communication system. The agreement provides for a fixed rate maintenance cost per unit of equipment for a three year period.

New radio equipment when installed is covered under warranty for a period of one year. As the warranty expires on this new agreement, it needs to be added to the service agreement. The requested service agreement renewal incorporates the new radio equipment that has come off warranty during the past year. The monthly cost of the service agreement is $10,387.90.

Upon inquiry of Vice-Mayor Peterson, Mr. Larry Bopp, Information Services Director, assured Mr. Peterson that the Water Authority will be paying their share of this monthly cost.

Mr. Bopp responded to a question by Mr. H. K. Edgerton about why this service agreement did not go out for bid.

Ordinance prohibiting crossing barricades and tampering with or removing barricades

Summary: There have been several public emergency situations in the past when it has become necessary to block off a public street with a barricade in order to prevent public egress and ingress of an area. It appears that a number of people find it convenient to remove or cross a barricade that has been placed on a public street to block egress and ingress since there is no disincentive to do otherwise. This ordinance would prohibit such activity and make it a misdemeanor to cross or remove a barricade that has been placed on a public street by a designated City employee to prevent egress or ingress during emergency situations.

Concurrence to Proceed with Demolition Project and Line Item Transfer of $10,000

Summary: Earlier this year Buncombe County adopted new rules on landfill operations. The rules require hand-sorting of most demolition debris into painted and unpainted wood, painted and unpainted masonry and metal.

For most demolitions of dilapidated houses, Public Works crews would be called on to remove those houses. This work would be done on days where weather was not suitable for street work. However, Buncombe

County's new requirements mean a week or more of work on each dilapidated dwelling, and Public Works crews cannot be spared for hand-sorting for demolition debris from dilapidated single-family dwellings.

As a result, we have bid out removal of four dilapidated houses (106 Burton Street, 1 Buffalo Street, 17 Ridge Street and 25 Ridge Street) at a low bid cost of $22,185. According to Building/Life Safety crew, this low bid cost is four times as much as the cost of Public Works crew removal. That amount also exceeds what we budgeted for dilapidated house removal for all of Fiscal Year 1996, since the original budget proposal did not anticipate that outside contractors would be required.

Unless Buncombe County's rules change, we expect that this situation will recur for the balance of this fiscal year in cases where City Council orders demolition of dilapidated houses when owners refuse (or are unable) to do so.

Upon City Council's approval to proceed a line item budget transfer from the nondepartmental contingency line item to Building Safety - Demolitions line item in the amount of $10,000 will be made in accordance with the authorization to transfer funds in the City's 1995/96 budget ordinance.

Upon inquiry of Councilman McClure, Fire Chief John Rukavina explained that these houses are too far dilapidated for Preservation Hall services. He noted that the City will be making arrangements with Preservation Hall for their services in future demolitions.

Fire Chief Rukavina answered various questions from Council on different dilapidated structures and the speed at which they will be demolished.

When Mr. H. K. Edgerton asked about who demolishes the houses, City Manager Westbrook referred him to Fire Chief Rukavina for the specifics.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

OTHER BUSINESS

Denver Boot

Vice-Mayor Peterson asked the City Attorney for the progress of the City instituting the Denver Boot legislation.

Lake Craig/Richmond Hill

Upon inquiry of Mr. Bruce Miller, Councilman McClure explained that the City is proceeding with looking into developing both the Lake Craig property and the Richmond Hill property for recreational activities.

ADJOURNMENT:

Mayor Martin adjourned the meeting at [illegible]0 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - October 17, 1995 -5:05 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Watts gave the invocation.

I. PROCLAMATIONS:

A. CAROLINA DAY STUDENTS

Mayor Martin welcomed Cathy Cline and her 6th grade students from Carolina Day School.

Councilwoman Sitnick spoke about how impressed she was with the teachers, the substance and the scope of the programs at Carolina Day School.

B. PROCLAMATION PROCLAIMING OCTOBER 31, 1995, AS "ASHEVILLE AREA CHAMBER OF COMMERCE DAY"

Mayor Martin read the proclamation proclaiming October 31, 1995, as "Asheville Area Chamber of Commerce Day" in the City of Asheville. He presented the proclamation to Mr. Jim Conshafter and Mr. Jay Garner.

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING TO REZONE 29 JOHNSON DRIVE FROM R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

ORDINANCE TO REZONE 29 JOHNSON DRIVE FROM R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Martin said that this public hearing was opened on September 26, 1995, and continued until this date, pursuant to the petitioner's request.

Mr. Mike Matteson, Urban Planner, said that Mr. George Kaltsunis is requesting that a 0.18 acre lot on Johnson Drive be rezoned from R-3 Medium Density Residential to CH Commercial Highway.

On June 23, 1995, notices were sent to 31 property owners making them aware of the rezoning request and the public hearing before the Planning & Zoning Commission ("Commission").

At the Commission's public hearing on August 2, 1995, seven people spoke, six of whom were opposed to the rezoning.

The Planning Department recommended denial of the rezoning request. After the Commission's public hearing on August 2, the Commission voted to recommend denial on a vote of 4-3.

On August 31, 1995, Mr. Kaltsunis appealed the Commission's decision to the City Council.

Mr. George Kaltsunis, owner of 29 Johnson Drive, passed out a map of his property. He said that he wanted the property rezoned commercial in order to get a better price for it. He did note, however, that he didn't have any plans for the property. Then Mr. Kaltsunis stated that if his property was rezoned, he would like to expand his parking lot for customers and employees. He said that the wouldn't cut any trees if a parking lot was put in.

Councilwoman Sitnick questioned why Mr. Kaltsunis wanted his property rezoned to "get a better price for it" and then state that he was not going to sell it, just extend his parking lot. She also wanted Mr. Kaltsunis to understand that the Council will be voting on the zoning of the property, not the use of the property.

Mr. Mike Lewis, President of the Grace Neighborhood Association, presented a petition to Council containing 185 signatures. The petition reads "Please sign below if you are AGAINST the petition to rezone the property at 29 Johnson Dr. from Residential (R-3) to Commercial Highway (CH). DO NOT sign if you have signed this petition before." He gave several reasons why City Council should not rezone this property to Commercial Highway, some being, but are not limited to, rezoning to commercial would be a threat to the residential neighborhood, if the property was sold a developer could put in anything allowed under the Commercial Highway District, the neighborhood is unsure about exactly what the petitioner plans to do with his property, and the neighborhood does not need nor want any further commercial encroachment into it.

Mr. Tom Leslie, Manager of Gracelyn Garden Apartments, said that 29 Johnson Drive offers a buffer from the commercial development on Merrimon Avenue. He said that if the house is torn down, they will lose the peace and quiet the retirees in the apartments have. If they lose their residential buffer, they lose a value in the product that they provide their customers.

Mr. Leslie then answered Councilman Swicegood questions about the price difference between the Gracelyn Garden Apartments and the apartments located closer to downtown on Merrimon Avenue.

Mr. Bill Whalen, 1 Oaklawn Avenue, voiced strong opposition to rezoning. He noted that the neighborhood could not take any more commercial development encroachment.

Mr. Frank Schepis, owner of a home on Manetta Road, also voiced opposition to the rezoning. He said that he has talked with some ladies in the neighborhood who were concerned on what affect the rezoning would have on their lifestyle.

A resident at 11 Ottari Road voiced his opposition to the commercial rezoning. He said that the people in the neighborhood have put a lot of investment and time into their houses. If the neighborhood keeps getting chipped away with commercial development, the houses that they have worked so hard to improve will become places not worth living in.

Mr. Bill Sabo, resident on Lynmar Avenue in Grace neighborhood, expressed his opposition to the proposed rezoning.

Councilwoman Sitnick said that she was "a member of the Commercial Hub Subcommittee of the original UDO effort a number of years ago.

There were only two things that the Commercial Hub Subcommittee agreed on fully, without question, without doubt, without hesitation an we were a very mixed group, I can assure you. We agreed on two things. We agreed on the fact that the only true commercial hub in the entire City is downtown. And we agreed on the fact that the Merrimon, the North Merrimon Avenue commercial hub area was fully built out. Those were the only two things that committee, after a year or more of deliberations, fully agreed on. The 2010 Plan maps were the only part of the 2010 Plan, in my opinion, that were not done with the same kind of care and time that the document itself was done with. The maps were drawn up in the 11th hour with little or no public input and if any of you have the map drawings of the 2010 Plan, I suggest you look at them so that you're aware of them when the UDO hearings begin. If you look at the dotted lines that covered the North Merrimon Avenue commercial corridor, you will see that those dotted lines, which were hardly seen by members of the public, encroach way, way, way into both commercial neighborhoods on both sides of Merrimon. All the way out Lakeshore and practically to Kimberly on the Johnson Drive side of Merrimon. In view of the fact that there are 185 signatures on this petition, I've received 13 letters in opposition and about 23 phone calls in opposition. I have received no letters or phone calls supporting this request. Planning and Zoning has denied the request twice. I am concerned about the package that is being created at this end of Merrimon. Not only for the neighborhood sake, but for the sake of people who drive on Merrimon every day who are already in harm's way because of the incredible traffic saturation that has occurred. I'm concerned about the lights. I'm concerned about the noise. I'm concerned about buffers. I'm very concerned about the domino effect that this kind of commercial encroachment seems to always have. True, it's not spot zoning. True, it's abutting another commercial area. But, every time you take out a residential piece and make it commercial, you are encroaching. And I'm concerned about what could happen. I, too, have heard the rumors for that piece of property - I don't know if Harris Teeter will ever build there. But the larger that property becomes, the larger the contiguous commercial property becomes, the greater the chance for a large development occurring there. I find it difficult, as a representative of all the people, to vote on a zoning request that will give a greater property value to one at the price of decreasing the property values to many. And, so I am going to vote against the rezoning request and would be happy to make that motion when the Mayor is ready to entertain it."

Mayor Martin closed the public hearing at 5:45 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved to deny the rezoning request to rezone 29 Johnson Drive from R-3 Residential District to CH Commercial Highway District. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, the ordinance failed.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR RIVER HILLS SUBDIVISION

Mr. Mike Matteson, Urban Planner, said that Collette Land Company is proposing the subdivision of a 39 acre tract into a five lot

commercial subdivision. A final plat has been prepared and presented to the City of Asheville for approval and acceptance. The property is located at the intersection of Swannanoa River Road and Wood Avenue. The City has previously approved the construction of a commercial development on this property through the group development review process. The developers are proposing the construction of a new street to provide access to the lots. The street will be constructed to City standards and will be dedicated to the City for ownership and maintenance. The proposed public road will provide access from Wood Avenue. The design of the road and the intersection has been reviewed and approved by NC DOT. This road has not been constructed. A letter of credit has been provided to the City to guarantee the construction of the road and of other public improvements. A second, private street will provide access into the development from Swannanoa River Road.

The preliminary plat for the River Hills Subdivision was reviewed and approved by the Planning & Zoning Commission at their October 11, 1995, meeting. The final plat and letter of credit have been reviewed by the City Attorney's Office, the Public Works Department and the Planning & Development Department.

The Planning Department staff recommends that the City Council accept the final plat for River Hills Subdivision with the following conditions: (1) Provide letters confirming allocation of water services; (2) Provide sidewalk along Wood Avenue; (3) Plat must be designated as "final plat"; (4) River Hills Subdivision name on plat; (5) Seal and signature of surveyor on plat; (6) Get final approval from Public Works Director for plat and letter of credit; (7) Identification of property owners along southern boundary; (8) Confirmation of street name; and (9) Revise owner's certification for corporation.

When Councilwoman Field questioned if this group development was really ready to come before Council for final approval because of so many conditions being attached, Mr. Matteson explained that the developers are in a time crunch and they want to close very soon.

Upon inquiry of Councilwoman Sitnick, Mr. Matteson said that this project falls under the City's stormwater ordinance and it's requirements must be met.

Councilman Swicegood moved for final plat approval of River Hills Subdivision, subject to the nine conditions outlined above. This motion was seconded by Councilwoman Field and carried unanimously.

B. RESOLUTION AWARDING THE BID FOR STREET REHABILITATION PROJECT (CONTRACT NO. 12, PHASE I) TO THE LOW BIDDER, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO

Due to only one bid being received, this item was pulled from the agenda.

C. ORDINANCE NO. 2244 - ORDINANCE PERMITTING THE POSTING OF A PROHIBITION AGAINST CARRYING A CONCEALED HANDGUN IN LOCAL GOVERNMENT BUILDINGS, THEIR APPURTENANT PREMISES AND PARKS

Police Chief Will Annarino said that House Bill 90, Chapter 398 of the 1995 Session Laws, allows a unit of local government to enact an ordinance to permit the posting of a prohibition against carrying a concealed handgun into local government buildings or onto other City premises and parks. To ensure a handgun free environment on City

property, City Council must enact an ordinance which will allow the City Manager to post all City property prohibiting the carrying of a concealed weapon on any City property. Once enacted, violators will be guilty of a misdemeanor under G.S. 14-145.10 (c).

Mr. John Sexton felt that this ordinance should not be applied to parks because joggers need to have the right to protect themselves.

Mr. Bruce Miller also felt that parks should be deleted from this ordinance because runners and joggers are concerned for their safety.

Mr. Ralph Bishop, resident of the City of Asheville, said that people should be allowed to carry weapons to protect themselves.

Upon inquiry of Mr. Bishop, City Attorney Slawter explained how an officer would enforce this ordinance without a search warrant.

Councilwoman Sitnick said that "the State law (House Bill 90) only allows federal and state buildings. There is a provision within the law that allows federal and state buildings, that prohibits concealed handguns on those premises. It was left up to the counties and municipalities to create their own law. I have to agree with Mr. Sexton, who brings up another good point, that it's pretty darn horrible that law-abiding citizens cannot go into parks at night or other sections of town. Especially as a woman, I can tell you that I have felt threatened. While I would like to think that we, as citizens, can protect ourselves, especially a woman, and I can only speak from a woman's perspective, quite frankly, I don't know, I guess men feel as threatened as we do. The sad thing for me is that we needed this law in the first place. I understand the desire for people to protect themselves, but for me the sad thing is that I thought what we were about as a society was to get guns off the street. And I would like to see us, as a society, have the kind of judicial backup for our law enforcement agencies that gets those violent criminals, whether they're carrying knives, or guns, or a brick off the street rather than making the rest of us feel like we have to go around protecting ourselves. I feel like I'm in prison, quite frankly. This is an issue that has two very important sides for me. And there is a third side that has no emotion to it and that's the liability side for the City. If a situation, like Mr. Edgerton brought up occurs, the City is placed in a terrible, terrible position that has to do with liability. So, as representatives of people from that City, we have to consider that as well. I don't want to sound like I'm sitting on both sides of the fence here, but I am. I feel for the need of the citizen to protect themselves, and I feel for the City to protect itself, and I feel for the law enforcement agencies who will really be placed in harm's way with people carrying weapons because the training that's going to be done that will allow the permit to be issued is going to be training under very controlled circumstances. Not training that occurs in the highly charged incident that you described, you know, like being faced with having to protect yourselves in a bizarre situation, like confronting a criminal. This is good and bad and this is not a fun thing to think about. As representatives of the people, I think it behooves us to think about every aspect of this. I hope that this is followed up with the citizens speaking up to make sure that our court system begins to have real backup for our law enforcement so we can get people who are illegally and criminally carrying weapons off the streets and keep them off the streets so we don't have to exist, either in our parks, or our neighborhoods or our downtowns or our homes, in such fear. It's gotten out of hand."

Councilwoman Field noted that this ordinance doesn't say you can't carry weapons - only that you can't carry concealed weapons.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption Ordinance No. 2244. This motion was seconded by Councilman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2244 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 239

V. CONSENT:

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 26, 1995, AND THE WORKSESSION HELD ON OCTOBER 3, 1995

B. RESOLUTION NO. 95-152 - RESOLUTION OF INTENT TO CLOSE NICHOLS STREET AND SETTING A PUBLIC HEARING ON NOVEMBER 14, 1995

RESOLUTION BOOK NO. 23 - PAGE 1

C. RESOLUTION NO. 95-153 - RESOLUTION OF INTENT TO CLOSE AN ALLEY OFF ASTON STREET AND SETTING A PUBLIC HEARING ON NOVEMBER 14, 1995

RESOLUTION BOOK NO. 23 - PAGE 2

D. RESOLUTION NO. 95-154 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SERVICE AGREEMENT RENEWAL BETWEEN THE CITY OF ASHEVILLE AND MOTOROLA COMMUNICATIONS AND ELECTRONICS INC.

Summary: In August of 1994, the City of Asheville entered into a new service agreement with Motorola Communications and Electronics Inc. for the maintenance of the City's radio communication system. The agreement provides for a fixed rate maintenance cost per unit of equipment for a three year period.

New radio equipment when installed is covered under warranty for a period of one year. As the warranty expires on this new agreement, it needs to be added to the service agreement. The requested service agreement renewal incorporates the new radio equipment that has come off warranty during the past year. The monthly cost of the service agreement is $10,387.90.

RESOLUTION BOOK NO. 23 - PAGE 3

E. RESOLUTION NO. 95-155 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: Dr. Joyce Dorr has resigned from the Civic Center Commission. This resolution will appoint J. Howard Collins to fill Dr. Dorr's unexpired term. His term will expire on June 30, 1997, or until his successor has been appointed.

F. MOTION TO PROCEED WITH THE DEMOLITION PROJECT AND LINE ITEM TRANSFER OF $10,000

Summary: Earlier this year Buncombe County adopted new rules on landfill operations. The rules require hand-sorting of most demolition debris into painted and unpainted wood, painted and unpainted masonry and metal.

For most demolitions of dilapidated houses, Public Works crews would be called on to remove those houses. This work would be done on days where weather was not suitable for street work. However, Buncombe County's new requirements mean a week or more of work on each dilapidated dwelling, and Public Works crews cannot be spared for hand-sorting for demolition debris from dilapidated single-family dwellings.

As a result, we have bid out removal of four dilapidated houses (106 Burton Street, 1 Buffalo Street, 17 Ridge Street and 25 Ridge Street) at a low bid cost of $22,185. According to Building/Life Safety crew, this low bid cost is four times as much as the cost of Public Works crew removal. That amount also exceeds what we budgeted for dilapidated house removal for all of Fiscal Year 1996, since the original budget proposal did not anticipate that outside contractors would be required.

Unless Buncombe County's rules change, we expect that this situation will recur for the balance of this fiscal year in cases where City Council orders demolition of dilapidated houses when owners refuse (or are unable) to do so.

Upon City Council's approval to proceed a line item budget transfer from the nondepartmental contingency line item to Building Safety - Demolitions line item in the amount of $10,000 will be made in accordance with the authorization to transfer funds in the City's 1995/96 budget ordinance.

G. RESOLUTION NO. 95-156 - RESOLUTION DIRECTING THE PLANNING & ZONING COMMISSION TO INVESTIGATE A REZONING PETITION TO REZONE 21 LOTS ON MARNE ROAD FROM R-2 to R-1A.

Summary: The residents of Marne Road, located in the Kenilworth neighborhood, have presented a petition requesting the rezoning of 21 lots from R-2 to R-1A. All of the lots are located on Marne Road. Section 30-11-1 (c) of the zoning ordinance permits residents of an area to petition for rezoning of the area if the petitioners "comprise a minimum of 51% of the property owners in the area and who own at least 51% of the property within the area to be considered." The petitioners meet those standards. Nineteen of the lots are developed with single family homes and the other two lots are vacant. All of the lots meet the minimum size requirements for the R-1A District.

The current R-2 zoning permits single family and multi-family development at a density of up to six units per acre, with a minimum lot size of 10,000 square feet. The requested R-1A zoning permits only single family development at a density of 8 units per acre, with a minimum lot size of 5,400 square feet. Both zoning districts also permit non-residential development such as churches, schools, and family care homes. The property owners are requesting the rezoning to protect the single family status of their neighborhood.

The zoning ordinance requires that rezoning requests initiated by petitions such as this request be reviewed first by City Council. Council then directs the Planning Department staff as to how to proceed with this rezoning request. The options available to Council are to forward the request to the Planning & Zoning Commission for their consideration, to recommend that no further action be taken on the request, or to table the request for additional study and/or information. If the request is sent to the Planning & Zoning Commission for consideration, they will review it, make a recommendation, and forward the recommendation to City Council for a final decision.

The Planning Department staff recommends that City Council forward this rezoning request to the Planning & Zoning Commission for review and a recommendation.

RESOLUTION BOOK NO. 23 - PAGE 5

H. MOTION ADOPTING THE CITY OF ASHEVILLE MISSION STATEMENT

Summary: The Total Quality Management (TQM) effort of the City is made up of four principles: respect for people, customer satisfaction, decision-making by fact and continuous improvement. The City's name for its TQM program is the Legacy of Excellence (LX). The LX program aims at integrating all aspects of the organization through a model made up of three components: excellence teams, goal management and excellence in daily work. A part of the goal management component is the need for the governing body to adopt a current mission statement. A mission statement is the "bread and butter" purpose of the organization; its essential reason for being. Missions are usually stated in product and/or service terms. In other words, they are the statement of what business we are in. We believe the following mission statement captures the essence of what the City's mission should be.

"Motion adopting the City of Asheville Mission Statement - The City of Asheville will enhance the quality of life for its customers (citizens, employees and visitors) by providing professional and efficient services. The City of Asheville will respond to customer needs, provide for employee development, serve as a partner in the community and be a leader in Western North Carolina."

I. MOTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH LAW ENGINEERING AND ENVIRONMENTAL SERVICES FOR ENGINEERING, GEOTECHNICAL BORING AND TESTING FOR RICHMOND HILL PROPERTY

Summary: This will authorize the City Manager to enter into an agreement with Law Engineering and Environmental Services for engineering, geotechnical boring and testing for Richmond Hill property.

Councilman Watts moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman McClure and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2245 - BUDGET AMENDMENT RELATIVE TO HUMAN RELATIONS SKILLS TRAINING

Summary: This budget amendment, in the amount of $20,500, is to fund Human Relations Skills Training for police employees. The offsetting revenue is provided by the N.C. Dept. of Crime Control and Public Safety.

ORDINANCE BOOK NO. 15 - PAGE 240

B. ORDINANCE NO. 2246 - ORDINANCE PROHIBITING CROSSING BARRICADES AND TAMPERING WITH OR REMOVING BARRICADES

Summary: There have been several public emergency situations in the past when it has become necessary to block off a public street with a barricade in order to prevent public egress and ingress of an area. It appears that a number of people find it convenient to remove or cross a barricade that has been placed on a public street to block egress and ingress since there is no disincentive to do otherwise. This ordinance would prohibit such activity and make it a misdemeanor to cross or remove a barricade that has been placed on a public street by a designated City employee to prevent egress or ingress during emergency situations.

ORDINANCE BOOK NO. 15 - PAGE 242

Councilwoman Field moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and final reading.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission on October 11, 1995:

WESTWOOD COHOUSING COMMUNITY ON VERMONT COURT

Mr. Carl Ownbey, Urban Planner, said that on August 29, 1995, the Planning Department received the site plan for the proposed 24 unit cohousing community to be located on Vermont Court in West Asheville. The proposed construction will include six housing structures and one "common house". Of the two residential buildings currently on the property, one will be renovated for use in the community and the other will be removed. The site plan was presented to the Technical Review Committee on September 11, 1995, for their comments.

On October 11, 1995, the Planning & Zoning Commission ("Commission") reviewed the site plan and opened the meeting for public comments. Those that spoke did support the project, however, several calls were received by the Planning staff prior to the meeting that opposed the project.

The Commission voted unanimously to approve the project with the following condition: The project comply with the City's Stormwater Ordinance and Erosion Control Plan.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

CREEKSIDE RETIREMENT COMMUNITY ON TSALI TRAIL

Mr. Carl Ownbey, Urban Planner, said that Creekside will be a 46 unit retirement community located on a 7.75 acre site on Tsali Trail (the former Little Beaver Day Care site). All internal drives will be privately maintained. The developers are requesting a slight variance in the number of required parking spaces (from 92 to 84).

On September 21, 1995, a notice was sent by the Planning Department to 39 adjacent property owners making them aware of the October 11, 1995, public hearing held by the Planning and Zoning Commission.

At the Planning and Zoning Commission ("Commission") meeting on October 11, 1995, two people spoke about the proposal. Although not in opposition, concerns were expressed regarding the density of the development.

The City Planning staff recommended approval of the project with four conditions:

1) That the final landscape buffering plan be approved by the Planning Department;
2) Receipt of a letter confirming adequate water pressure for fire protection;
3) Compliance with the City's floodplain ordinance; and
4) That the variance request for a reduction in parking spaces be approved by City Council.

At their October 11, 1995, meeting, the Commission reviewed the request and voted unanimously to recommend that City Council approve this group development but deny the variance request for a reduction in parking. The following conditions were recommended:

1) That the final landscape buffering plan be approved by the Planning Department;
2) Receipt of a letter confirming adequate water pressure for fire protection; and
3) Compliance with the City's floodplain ordinance.

The Commission and the City Planning staff recommend approval of the group development with the aforementioned conditions being met. The Commission recommended denial of the parking variance request.

Councilwoman Field moved to set a public hearing for 5:00 p.m. on October 31, 1995, to consider the variance request to allow a reduction in the parking spaces from 92 to 84. This motion was seconded by Councilman Watts and carried unanimously.

B. H.K. EDGERTON - MOTOROLA SERVICE AGREEMENT

Mr. H. K. Edgerton voiced strong opposition in the City not putting the Service Renewal Agreement with Motorola Communications and Electronics Inc. out for bid.

C. JANUS PROGRAM

Ms. Marguerite Melendez, volunteer at the JANUS Program, said that since the Federal government has taken away the funds for this Program, young children are suffering. Being a City taxpayer, she wanted City government to become involved and get something started for the youth to take place of the JANUS program.

Vice-Mayor Peterson and Councilman Watts offered to look into this matter and see how the City could help.

Mr. H. K. Edgerton also offered his help with Ms. Melendez.

Councilwoman Field said that she has talked with Mr. Vaughn Ownbey, Executive Director of the Buncombe County Drug Commission, and he said that his staff has had discussions about the JANUS program. Mr. Ownbey stated that he was going to see if they could find out what was going on with the money and how to get another executive director so the program could move forward.

D. CLAIMS

The following claims were received by the City of Asheville during the week of September 14-28, 1995: Allison Sullivan (Streets), Carolyn Ayers (Water), Thomas Kane (Water), Enterprise Rent-A-Car (Parks and Recreation), Michael Wells (Water), Frank Jones (Sanitation) and Paul Skarlatos (Sanitation).

The following claims were received by the City during the week of September 29-October 5, 1995: Jesse Holloway (Water), Don Campbell (Water), Lashanda Logan (Streets), Belinda Crooks (Water), Gail Conner (Water), Mettie Allen (Water), Joey Allen (Sanitation), Alma Bowman (Water), and Amy Nicholson & Karen Kuretsch (Water).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

E. LAWSUITS

The City of Asheville was served with the following lawsuits on October 9, 1995: Edith Anne Dosier v. City of Asheville (False Arrest/Damages); and Timothy K. McCade v. City of Asheville and Civil Service Board of the City of Asheville (Civil Service Board Appeal).

These lawsuits have been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:35 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

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Tuesday - October 24, 1995 - 2:10 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure (arrived in meeting at 2:33 p.m.), Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood (arrived in meeting at 3:12 p.m.) and Herbert J. Watts (arrived at 3:38 p.m.); City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

UN DAY

Mayor Martin thanked Ms. Hazel Fobes for furnishing the Council with some information on United Nations Day. This week the United Nations celebrates its 50th anniversary. He highlighted some efforts accomplished.

Mr. Ralph Bishop made negative comments concerning the United Nations.

Recognition of Hungarian Local Government Officials

Mayor Martin welcomed and the City Council presented gifts to Mr. Gyula Krajczar, Mayor of Komarom; Mr. Jozsef Miskolczi, Mayor of Nyergesujfalu; Mr. Antal Szekely, Mayor of Oroszlany; Mr. Laszlo Konozsy, Mayor of Esztergom; Mr. Janos Csige, Managing Director, Komarom-Esztergom Local Enterprise Agency, Tatabanya; and Mr. Gyorgy Kovacs, President, Komaron-Esztergom County Council, Tatabanya. Mayor Martin explained that these local government officials are visiting our region as part of a U.S. Agency for International Development sponsored program focusing on Local Government and Economic Development.

AFFORDABLE HOUSING STRATEGIES

Mr. Marvin Vierra, Community Development Director, said that the Community Development Block Grant Program ("CDBG") has provided the City with funding in excess of $36,693,234 since its inception in 1974. A large portion of the funds have been used for housing activities. The HOME Investment Partnerships Program has provided the region with funding in excess of $1,779,438 for housing activities since its inception in 1992.

The City's Consolidated Plan states that 29% of the City's 26,890 households have housing problems. The total households in need of housing assistance therefore, are 7,798.

The City has relied heavily on federal funds to provide for the housing needs of its residents. State funding has provided some assistance primarily to non-profit and for-profit housing providers. The primary source of federal funds for housing has been the CDBG. City Council has given affordable housing projects the highest priority for funding during recent years and a majority of the funds are currently allocated to housing projects. Other cities in North Carolina have used bonds and ad valorem tax revenue to provide for the housing needs of residents.

There are currently five non-profit housing providers receiving CDBG and HOME funds from the City for housing activities. The City assumed administration of the City-wide housing rehab program on July 1, 1995.

He then briefed the Council on historical information on Asheville' CDBG and HOME programs. He reviewed funding sources and projects administered by other cities.

Mr. Larry Holt, Executive Director of the Housing Authority, answered some questions raised by Mr. H.K. Edgerton relative to the HOPE 1 Program, which is a federally created program. Councilman McClure clarified that a buyer under the HOPE 1 program would no longer be qualified under the first time home ownership program.

Councilwoman Field said that the Housing & CD Committee is looking into the possibility of setting up a roundtable committee to look into innovative ways of funding housing and neighborhood improvements.

Councilwoman Sitnick suggested the hiring of a part-time or full-time grants administrator, whose sole job would be to look for and apply for grants. She felt sure that there are a lot of grants available, but the City is unaware of them and are not applying for them. She stressed the City needed to find other areas of revenue streams in lieu of raising taxes. She also suggested giving a hard look at the use of impact fees and not only for infrastructure but also schools and housing. If the City is going to be seriously committed to help with the needs of our community, the we are going to have to look at big money! If we don't find other sources of revenue we won't be able to accomplish anything.

Upon inquiry of Mr. H.K. Edgerton about housing projects, Vice-Mayor Peterson said that it is Council's goal to have people own their own homes.

Councilwoman Sitnick added that the Housing & CD Committee is not only committed to dignified affordable housing, but decent rental housing too for those who prefer not to own their own home, for whatever reason.

Councilwoman Sitnick then expanded on Councilwoman Field's comments about the roundtable committee. She said that once this committee is formed, with non-profit groups, City staff, Housing Authority staff, and interested citizens in the community, they will discuss these issues and come up with real implementable solutions. She invited Mr. Edgerton to become a member of the committee and offer it his solutions and ideas.

QUARTERLY MINORITY BUSINESS REPORT

Mr. Larry Fisher, Finance Director, said that this quarterly report is for the quarter ending September 30, 1995. He detailed minority business participation by (1) certified minority business in four classifications and (2) minority businesses, both certified and non-certified in those same classifications. He then briefed Council on the report noting that each classification identifies the amount of participation and the goal attainment by each minority category. He said that there was not too much of an increase over the last quarter, however, he felt other progress has been made.

When Mayor Martin asked for any suggestions for improvements, Ms. Marilyn Bass, Minority Business Coordinator, said the City should have "listened to the recommendations (of the consultants who were hired by the City) and not changed them." She said that "had we done that, we would have been in a better situation." Mr. Fisher responded that he

suggested spreading the word to minority owned businesses to become certified and let them know that the City is interested and committed in doing business with them.

Mayor Martin then instructed the City Manager to "dust off" the disparity study in order that Council can become more familiar with it.

When Mayor Martin asked if the figures for minority business participation were realistic, Ms. Bass felt that the goals were realistic. She once again stressed that the City should look at what the consultants recommended in the draft "because the final report, they changed because they were pressured to change." She "was told that the study was compromised." When questioned by Councilman McClure on who told Ms. Bass the study "was compromised," Ms. Bass responded "one of the consultants, the project coordinator, consultants."

Upon inquiry of Councilwoman Sitnick on why some businesses did not respond when they were asked to become certified, Councilwoman Field explained that some eligible businesses didn't need the City's business and didn't want to have to go through all the paperwork.

Upon inquiry of Vice-Mayor Peterson, Ms. Bass reminded the Council of the members on the Minority Business Commission.

When Councilman McClure asked if our standards were stricter than federal standards, Ms. Bass replied that they are not.

Discussion then surrounded our service area, if goals are measured on an on-going basis or if there was a beginning point, if there has been an impact on the goals since the City is doing less construction and less consulting contracts, and why people do not get certified.

Mr. H. K. Edgerton noted several problems with this program. Some reasons he cited were (1) the City should have promoted Ms. Bass to a department head instead of placing her in the Purchasing Division; (2) department heads do not take Ms. Bass seriously; (3) Ms. Bass has no staff; (4) there were improprieties with the Sondley Estate project; and (5) the make-up of the MB Commission has no African American male members on it. He feels the above reasons are why the minority businesses do not want to do business with the City. Mr. Edgerton felt that people on the low end of the scale have to be given the opportunity to move forward.

Mayor Martin urged Mr. Edgerton to become part of the solution, not part of the problem. He suggested Mr. Edgerton submit his recommendations in writing so that staff will have the opportunity to work on them.

City Manager Westbrook said that even though there was no progress during this quarter, long-term gains will be realized.

ADVERTISEMENT OF AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL PARCEL 30 OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

Mr. Ed Vess, Coordinator of Field Service, said that the bid of Anthony J. Tozzi, in the amount of $6,210 is the higher of two bids received for the purchase of Disposal Parcel 30 in the East End/Valley Street Community Improvement Area in an amount not less than the established minimum price of $6,100.

Disposal Parcel 30 is a residential lot at the corner of Curve Street and Alexander Drive comprising 10,672 square feet. The bid from

Anthony J. Tozzi for Disposal Parcel 30 includes the proposal to build a duplex, with each unit containing 3 bedrooms and 1-1/2 baths for his personal residence and rental at an anticipated cost of $107,340. Mr. Tozzi has applied for the Incentive Housing Program ($1 lot) subsidy.

When Vice-Mayor Peterson asked where the $6,200 would go, Mr. Vess stated that it would go back into the CD program income.

When Mayor Martin asked Council if they had any problem in placing this item on the Consent Agenda for the next formal meeting, Mr. Ralph Bishop was opposed to placing anything on the Consent Agenda.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

ADVERTISEMENT OF AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL PARCEL 82 OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

Mr. Ed Vess, Coordinator of Field Services, said that a bid has been received from Mr. and Mrs. Alfred Logan for the purchase of Disposal Parcel 82 in the East End/Valley Street Community Improvement Area at the established minimum price of $650.

Disposal Parcel 82 is a fragment parcel at the corner of Hazzard Street and Pine Street comprising 3,049 square feet. It does not meet the minimum standards for a buildable lot. Mr. and Mrs. Logan own a home adjacent to Disposal Parcel 82 and it is their intent to combine that parcel with their lot for additional yard space. Mr. and Mrs. Logan do not plan any construction on this parcel.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

BUDGET AMENDMENT REGARDING FUND TRANSFER FOR CITY-WIDE AMERICANS WITH DISABILITIES ACT OPERATIONS

Mr. Lyle Willis, ADA Coordinator, said that a transfer of funds is needed to fund administrative costs for ADA compliance and to establish the 1995/96 ADA Capital Project appropriation as approved in the 1995/96 CIP.

The City is committed to continue to achieve ongoing improvement in its ADA compliance. In order to continue, funding for support staff and other resources is needed. A transfer of funds appropriated from the General Fund Contingency is needed to meet the funding requirements.

The funds would be used to continue additional staff support to assist the City ADA Coordinator and to improve ADA compliance in two parts based on approved CIP budget funds. The two parks approved for these funds are Murphy-Oakley Park and Weaver Park.

Staff requests Council approval in the transfer of funds from the General Fund Contingency in the amount of $25,000 for administrative costs and the transfer of $150,000 from the Non-Departmental Fund to the 1995/96 ADA Project as approved in the 1995/96 CIP.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

BUDGET AMENDMENT TO APPROPRIATE FAIR HOUSING ASSISTANCE PROGRAM GRANT FUNDS

Mr. Marvin Vierra, Community Development Coordinator, said that this budget amendment, in the amount of $16,700, is to appropriate Fair Housing Assistance Program grant funds.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

FINAL PLAT APPROVAL FOR WILSON CREEK SUBDIVISION

Mr. Gerald Green, Senior Planner, said that Advantage Development Company and WNC Habitat for Humanity is proposing the subdivision of a 12.26 acre tract into a 32 lot residential subdivision. A final plat has been prepared. The property is located off of Caribou Road. The developers have begun the construction of a new street which will provide access to the lots. The street will be constructed to City standards and will be dedicated to the City for ownership and maintenance. The proposed public road will provide access from Caribou Road. A letter of credit has been provided to the City to guarantee the construction of the road and of other public improvements.

The preliminary plat for this subdivision was reviewed and approved by the Planning & Zoning Commission at their October 11, 1995, meeting. The final plat and the letter of credit have been reviewed by the Legal Division, the Public Works Department, and the Planning Department.

The Planning Department staff recommends that City Council accept the final plat for Wilson Creek Subdivision with the following conditions: (1) the location of the water line and easement be indicted on the plat; (2) the address of the subdivision's owner be included on the plat; (3) the certificate of ownership be revised to reflect ownership by a corporation; (4) the sizes of the metal culverts be indicated; and (5) the size of the box culverts at the creek be noted.

Upon inquiry of Councilman Watts about the bridge, Mr. Green said that the developer constructed the bridge at an approximate cost of $40,000. The bridge will be dedicated to the City and then it will be maintained by the City.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

CONSENT AGENDA:

Municipal Bridge Inspections by NC Department of Transportation

Summary: A municipal agreement has been received from the N.C. Department of Transportation ("NC DOT") for having the City System bridges re-inspected. The Federal Highway Administration reimburses 80% of the bridge inspection cost which is estimated at $1,600 per bridge. The City reimburses NC DOT for 20% of the cost for the bridges on the City Street System. The City has 24 bridges which qualify for inspection through the program. The City's share of the estimated cost will be $7,680 and funds are available in the City's bridge right-of-way fund of the Capital Improvement Program.

Intent to close Parkwood Road between Haywood Road and Patton Avenue and calling for a public hearing on the matter for November 28, 1995

Intent to close a portion of an unnamed alley between Elizabeth Place and Woodlawn Avenue and calling for a public hearing on the matter for November 28, 1995

Motion to set a public hearing on November 14, 1995, to consider designating the Rankin House (5 Woodlawn) as a local historic landmark

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

OPPOSITION HR 1020 AND ALL SIMILAR LEGISLATION WHICH WOULD REQUIRE HIGH LEVEL RADIOACTIVE WASTE TRANSPORTATION NEAR OR THROUGH THE CITY OF ASHEVILLE

Councilwoman Sitnick introduced Ms. Janet Hoyle and Mr. Lou Zeller from the Blue Ridge Environmental Defense League. She said that she "received a letter from Lou Zeller the third week in August asking if I would consider bringing this before Council. This is not a usual Council issue because it's far more reaching that our City. But really it is a very local issue and it's one that addresses preventative thinking and preventative government, rather than reacting to a crisis somewhere down the line that we have failed to envision today. I must tell you that I have been involved with nuclear issues for 20 years and am in deference to my fellow Council members and members of the public, I'm going to consolidate 20 years of concern into just a few minutes and I know you'll be very grateful to me for that. But I have to tell you that where nuclear issues are concerned, I consider nuclear problems the ultimate infringement of property rights. Because an accident anywhere with nuclear things is an accident everywhere. Chernobyl taught us that big time. The accident in Russia where the nuclear power plant melted down when valves and coolants and the reactor didn't act properly. One of the ironies of Chernobyl is the concrete building they built around the melted down power plant is now beginning to break down and there's concern that there's going to be another Chernobyl. Be that as it may, it's clear when it comes to nuclear substances - we are all at the whim of the wind. The wind picks the stuff up and kind of drops it here, and drops it there. Chernobyl contaminated parts of Europe, parts of Scandinavia, parts of America, and everything else in it's path. What I bring before you today is an opportunity to pass a resolution, and that's all it is, that will hopefully someday protect the wonderful son that Carr had, my children, all of our children, our neighbors. We have, since the Manhattan Project, be subsidizing with our tax dollars, mind you, the nuclear industry, to the tune of about $40 Billion to date because we believed it was that the cheap manna from heaven that was going to give us cheap energy for ever and ever. Well, it turns out that it wasn't cheap after all because now the country is faced not only with the undaunting task of doing something about low level nuclear waste, which is very toxic by the way, and which we have no real good technology to deal with, but in the next couple of years, we are going to be faced with what are we going to do with the transuranics wastes and the high level nuclear wastes that are the fuel rods from nuclear power plants. We don't even know what we're going to do when we start decommissioning the nuclear power plants which are huge concrete and steel monoliths. You break them down, what are you going to do, truck them somewhere, bury them somewhere? The only project that I know of, and correct me if I'm wrong to date that has attempted to look into the permanent disposal of high level waste, was a project that occurred in caves out in the southwest and before they even finished building the caves, water was leeching through the rock. And you know water is the mobile transfer of nuclear materials. It's what's gotten into all of

the pits at Barnwell and at other sites that have tried to bury low level waste. Water migrates into the area and carries the isotopes. Recently the Congress has passed a House Resolution No. 1020. And I'm going to let Janet and Lou talk about it, but I want you to consider this resolution, and that's all it is, that will basically protect Asheville in the future. And I use the word protect in quotes, like I said, we're at the whim of the wind. If there's an accident at Aiken or at the Savannah River plant, we're touched by it. I'd like to pass out these packets. If you would pass them to the members of the press for me, and pass these around for Council. Give me what's left. Let me just highlight a couple of points made in this material. Without a state publicly acceptable permanent repository, high level waste is building up at 109 nuclear reactors across this country. Remember, this is an industry that we subsidize with our tax dollars and they don't know what to do with their garbage. They've never put money aside. They are looking to the taxpayer and the rate payer to not only pay those bills, but to accept the physical responsibility of nuclear waste."

Vice-Mayor Peterson wondered if Council passes the resolution, will it really make a difference.

Councilwoman Sitnick said that "a few years ago, the federal government tried and it was beaten down by this community. They tried to create the Clinch River Breeder Reactor into a monitored retrievable storage unit where they would load it from a nuclear plant, truck it to the MRS, off load it, keep it there temporarily and then when they found a permanent solution, they'd on-load it again, truck it to another site and off-load it - all risky maneuvers. And was blocked also. The whole idea of this resolution is to say to the nuclear industry - stop generating this stuff. We're not going to make it easy for you to truck it through our cities and past our schools and past our churches and our homes. We're not going to make it easy for you to find a place to put it."

Ms. Janet Hoyle stressed that there is time to do something about HR 1020. She said that HR 1020 would establish a temporary storage depot for high level nuclear waste in Nevada at the test site and in 1998 the waste would begin to be shipped from 109 reactors from across the country affecting North Carolina and 42 other states. We would at that point take title and liability, as taxpayers of this country, to the industry's nuclear waste. The State of Nevada has generated a route map and the methodology for their study. Western North Carolina would be affected by the rail shipments of high level nuclear waste over a period of 24 years, if this Bill moves forward. There would be 272 very large rail casts coming through population centers. This Bill has not passed yet, so a resolution on the part of this City would send a message that we, at the local level, are not ready for these shipments. In addition, a resolution can also, perhaps, if this does move forward and the Bill is passed, give you a legal antecedent when there's a big squabble over whose going to pay for the clean up costs because there are restrictions on how much the industry and the federal government would have to pay for cleaning up a local accident site. No community in Western North Carolina is prepared for an accident involving high level nuclear waste. Each one of these 272 casts would carry the radiation of 240 Hiroshima bombs. Our emergency management across the western part of the State is excellent, but there is no money in the budget for training, for additional personnel, for hospital radiation wards, for you, at the local level, to pick up the tab. The route selections are not made according to what the Department of Energy is saying, but it doesn't take a genius to know where the reactors are and

know where Nevada is and know that we're on the path from the reactors that are east from here. So the towns and cities and counties that get in there with a statement are ahead of the game. Other cities have passed similar resolutions.

Councilwoman Sitnick said that "what we ought to be doing with these high level fuel rods is leaving them at the nuclear power plant where they're stored now. Because that's where the security is, that's where the technology is. You don't add the extra risks of transportation and temporary storage somewhere. It's really the only sane thing to do, after the fact. We've already generated this stuff. But 35 years ago we didn't require this industry to think about where they were going to put their waste. We, as homeowners, have to know that we can't spread our garbage around our yards - we would get slapped with a fine pretty quick. So we've never required that of an industry that generates the most lethal waste known to man. The other thing I want to point out is a couple of weeks ago on the news, I'm sure you were all aware of the fact that there was a terrorist attack on a train in the desert. If we think that that's not going to be happening more and more in this country, then we're hiding our heads in the sand. And not only do we have to worry about terrorism, we, as a Council deal with infrastructure - streets, sidewalks, sewer, water, etc. The federal government has not dealt with a very important infrastructure in this country for too many years. And that's our railbeds. Not the trains, but the railbeds. And many and many of the derailments of trains that occur, is because the railbeds are not maintained, are old, are breaking down and falling apart."

Ms. Hoyle stressed that these decisions are not in stone yet and passing the resolution shows that we are getting involved in the public debate before the decisions are made. We were able to track high level nuclear waste from overseas very easily, so what we're saying is that if we can do it, any terrorist organization can find out this information and track the shipments.

Upon inquiry of Vice-Mayor Peterson, Mr. Zeller said that he has been to Nevada and New Mexico and citizens have urged him to see what can be done locally. He noted that the State of Nevada is adamantly opposed to the site.

Councilwoman Sitnick said that "it has to be done locally at every level. It has been stopped in places. One of the problems out west is there are a lot of Indian reservations that the federal government has a lot of say on what happens on them. But even certain tribes have come up against the feds and stopped them."

Councilwoman Field said that she is personally has a stake in this issue. The nuclear waste is generated. Even if we shut down every nuclear power plant today on the spot, we still have to deal with what we've done. How can we responsibly say that we are not going to find a place or a way to deal with it? She saw a piece of a program on public television about using low level waste or maybe even high level nuclear waste for new ways of dealing with both Cancer and Aids. She wondered if Ms. Hoyle or Mr. Zeller were familiar with the use of nuclear waste for medical research. If the information is correct, what we have stored could possibly be used to help humanity rather than destroy it.

Councilwoman Sitnick said that "you're right. We've got the waste and you're right, we've got to be responsible. The most responsible thing is to leave it on site where it is now."

Councilwoman Field said that to the best of her knowledge why the United States is taking other countries nuclear waste is because we think we'll be more responsible than perhaps other countries who are not as stable as we are.

Councilwoman Sitnick said that "one of the reasons we're taking foreign waste is because we're getting agreements that there will be a non nuclear proliferation policy coming from those countries. And it's big business. Chris is absolutely right."

Mr. Zeller explained how the medical community has been developing new ways to do both diagnosis and treatment.

Councilman Swicegood said that no one want's nuclear waste transported through Asheville, however, he would like to be given an opportunity to read all the information presented before acting on the resolution.

Councilwoman Sitnick said that she "handed this out weeks ago. On the front page there are six items that are listed that basically gives us a synopsis of what that document is. Those six items are real easy to understand. It tells you when the shippings are going to start. It tells you how many casks, how many loads. It tells you what the Bill establishes, it tells you everything you need to know about that Bill. All this resolution does is make a statement on the part of Asheville that we are very concerned about this Bill being passed in Congress that is going to allow rail shipments of high level nuclear waste, some of not even generated in our country, to pass right through our town."

Mr. Zeller said that they did not want to talk to Council about whether the policy is misguided or not, but what Asheville might look forward to doing to protect itself from these shipments if they become a reality. The realities are dealing with public health problems in emergency response and dealing with fiscal problems.

Councilman Watts agreed with Councilman Swicegood and asked for additional time to study the issue.

Councilman McClure said that it disturbs him to hear that we are bringing in nuclear waste from other counties. However, he would like to have some time to understand the issues before passing a resolution.

Councilwoman Sitnick said that our resolution sends a message to Congress that they better slow down on HR 1020 and allow some public debate. That's the whole purpose of the resolution. They have been irresponsible in the nuclear industry for 40 years. That's why we have no place to put this away. At least at the nuclear power plants they have the security, they have the technology that's already in place. It's in pools."

When Councilwoman Field asked why aren't they leaving the nuclear waste in the pools, Councilwoman Sitnick said that "because the pools are filling up. Because we continue to generate a waste that we have never demonstrated the technology that can deal with it. And those pools are filling out. They want to move it from there so that they can continue to generate waste. We have never looked at alternate energy sources. I don't want to get into a discussion about energy, but we have missed the economic boat. Japan and Germany have far surpassed us. We have local people generating energy out of their backyards with wind and water. And this is a country that has the biggest hospital system, the biggest road system, the biggest school system, and we've never

developed alternative energy. And we continue to rely on nuclear. Even though the federal government, themselves, said that it is not financially responsible to reprocess for plutonium."

When Ms. Hoyle passed Mayor Martin the 95 page HR 1020, Mayor Martin said that the House Resolution will be available for Council to review prior to the topic being brought back up for Council's consideration. Councilwoman Sitnick also suggested Council members read the information she has provided to them previously.

Ms. Hoyle explained that in 1998 we will be passing onto the future generations of America the ownership and liability for the nation's commercial nuclear waste.

Councilwoman Sitnick said that "the pickle we're in is because the nuclear industry is one of the most heavily funded, strong lobbies in Congress and they have made it a point to make sure, and they have not been responsible or liable for any of this. And now that they're faced at the backdoor with full pools, they don't know what to do with it. We are being made to eat all of it."

Upon inquiry of Ms. Hazel Fobes, Mayor Martin said that since Council wants to be more informed, this issue will be postponed and brought up again within the next 30 days.

COUNCILWOMAN SITNICK'S TWO YEAR TERM REPORT CARD

Councilwoman Sitnick briefed Council on the two-year term report card she compiled outlining the City Council's accomplishments up through September 23, 1995. She asked for any additions, corrections, or deletions to her list, which Council furnished to her.

She said that she would give copies of this report card to the new Council because it was a good working document.

Vice-Mayor Peterson felt that for such a diverse Council, they have accomplished a lot in their last term.

Councilwoman Sitnick said that "I think we need to consider having more dialog on Council. There have been times when I wished we just had endless moments to discuss why we all came to some conclusions. Not just going around the table, giving one or two sentences. But there are times when I'd like to know why Rock came to a certain conclusion about something financial or budgetary. Or why Russ offered a little bit of information on something, or Barbara. Because we're right in the thick of it. And there are times when we sit endlessly and listen to the presenters, but I don't have a whole lot of memory listening to members of Council. And the reason I think that's important is because we're the ones that get the phone calls, the letters from the people in the community telling us their thoughts and ideas and their comments and their problems. And I would like to hear and have opportunities for dialog. Maybe two or three times a year we could just have a session to discuss the phone calls we're getting, the letters we're getting, the concerns that are brought to us by our friends, and people we meet in our businesses. I think a little bit more dialog on what's going on that we learn, as Council, is important to the way we make decisions and make policy. My old bug-a-boo, public input. I think the next Council ought to seriously consider, and whoever becomes Mayor, that we have some meetings after work so people can come and sit in these sessions and be part of what goes on. I think that at some point the Council ought to find out from the public how they feel about

a full-time Council, full-time Mayor and adequate salaries so that people who have jobs, such as yourselves, can afford to give up a little more of your time and devote more to the City. I think what we ought to start looking towards, not necessarily ask, what are they doing in other cities in North Carolina, but rather looking at Asheville, looking at it's uniqueness and deciding what are the solutions that are best for Asheville. Not just taking what other cities are doing and applying it to here. But really coming up with some creative ideas about solving some of the problems with fundamental reform, rather than just copy-cat policy making. I think that we need to seriously consider impact fees in this community. Impact fees in other communities in this State have not stopped growth, economic development and progress. What impact fees do, they create a revenue stream for a municipality to do what it has to do to keep up, to maintain, to repair, to enlarge, without charging taxes to the taxpayer - without raising taxes. So, we need to look at all possible sources of revenue. The comment I made earlier about a grants officer, in-house. Even if it's a part-time grants officer. Somebody who just sits there with that book that's in the library that's this thick about all the grants available to individuals, organizations and governments. So that we're looking at every possible way to bring money in so that we don't raise taxes. I think we need to continue our effort to looking at how we can deal with the weeds in our curbs and sidewalk. You know, we talk about economic development. We didn't need the Chamber of Commerce to come and tell us that the weeds and the litter create a bad picture. We know that. And unless, I mean, we as a government cannot solve all the problems. There is a responsibility amongst our citizenry. And if the only responsibility is pulling weeds in front of their businesses and homes, I don't think that's too much to ask. So we've got to figure out a way to inspire the citizens of this community to take some responsibility for their own front yards and their own backyards. I think that we need to seriously look into hiring an arborist for this City so that never again, and I repeat, never again, do we have a tragedy like occurred at Jones School. So that we don't have a tragedy like occurred up on Town Mountain where 11 trees, major, major treasured trees were destroyed because of the wanton actions of a tree trimmer. And if you have somebody in-house who knows about this stuff. And again, we don't have to spend money. We have the possibility of a volunteer from the Arboretum to George Briggs. Somebody who would be working with the City to protect our trees. We are a Tree City USA and we ought to be real proud of it. And the last thing I want to say is, I think the next Council, and this is going to be a real tough one. I mean, other than consolidation and the issues we've looked at, I think we seriously need to consider whether this City will benefit by having either an elected school board or a half-elected, half-appointed school board or if we really are better off with an appointed school board. We need to seriously examine that issue, because something is wrong. Something is amiss in our City schools. We all know it, and you know what, there is nobody to point a finger at. It's just a problem that has grown over the years and one that needs us to solve it. And when I say us, I mean the whole community. And I don't know whether a referendum on the ballot is the way to decide whether we need appointed, elected or half and half, but I think that it's up to the City Council to discuss substantively and seriously so that we can take care of the problems in our schools and not allow it to grow and get more out of hand. I think you for your patience. You noticed that the Citizen-Times said it would be her last opportunity, but I will be here for another few weeks. I don't know how, maybe it's wishful thinking on the part of some folks, I will be here and I will be giving my final speech that won't involve any issues, it will be just from the heart."

Mayor Martin thanked Councilwoman Sitnick for all the time and effort she put into the report card. He said that he was impressed with the way she followed projects through their completion.

Councilman McClure stated that he truly respected and admired Councilwoman Sitnick.

OTHER BUSINESS

Jones School Sidewalks

Councilwoman Field said that she has received a letter from John Cort stating that if the City wanted to put a sidewalk in at Jones School, now would be the time to coordinate it.

Council unanimously agreed to direct the Public Works Department to work with Mr. Cort on the correct grades for sidewalks and then prioritize the project and when money is available, we can put the sidewalks in. She, along with Vice-Mayor Peterson and Councilwoman Sitnick, wanted no more trees cut, but suggested perhaps a walking path with pervious materials.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:55 p.m.

Magdalena Burrison
CITY CLERK

MAYOR

Tuesday - October 31, 1995 - 5:05 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilwoman Sitnick gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-157 - RESOLUTION IN MEMORY OF SARA MARTIN MORRIS

Councilwoman Field read the resolution in memory of Sara M. Morris who October 14, 1995. He presented the resolution to her husband, William, and a family member.

Resolution No. 95-157 was adopted by acclamation.

RESOLUTION BOOK NO. 23 - PAGE 6

B. RESOLUTION NO. 95-158 - RESOLUTION IN MEMORY OF LUCY S. HERRING

Councilman Watts read the resolution in memory of Lucy S. Herring. He presented the resolution to her close friends. Councilman Watts stated that her son lives Arizona and the resolution will be sent to him.

Resolution No. 95-158 was adopted by acclamation.

RESOLUTION BOOK NO. 23 - PAGE 7

C. RESOLUTION NO. 95-159 - RESOLUTION TO RETIRING EMPLOYEE LARRY P. WARD

City Manager Westbrook read the resolution stating that Larry P. Ward has been an employee for 31 years and has requested retirement from his position as Assistant Director of Public Works. He expressed City Council's appreciation to Larry for his service to the City of Asheville and its citizens.

Vice-Mayor Peterson moved for the adoption of Resolution No. 95-159. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 8

D. RECOGNITION OF THE ASHEVILLE POLICE DEPARTMENT FOR RECEIVING THE 1995 INTERNATIONAL ASSOCIATION OF LAW ENFORCEMENT PLANNERS ANNUAL PROJECT OF THE YEAR AWARD - PLANNING EFFORTS IN THE ASHEVILLE POLICE AND COMMUNITY DAY

Mayor recognized the following Committee members for the Community and Police Day: Officer Mark Wilson, Officer Wade Wood, Detective Scott

Lunsford, Officer Robin Lunsford, Linda Clark, Sarah Ayers and Officer Dave Romick.

Police Chief Will Annarino said that the Asheville Police Department has been awarded the 1995 International Association of Law Enforcement Planners ("IALEP") Annual Project of the Year Award. The award recognizes the planning efforts in the context within which the Asheville Police and Community Day was conducted. On June 24, 1995, the Police Department held its first Police and Community Day event at Martin Luther King Jr. Park. Over 1,000 people observed the exhibits and demonstrations of police procedures, enjoyed food, entertainment and interaction with police officers and police employees during the course of the day. The event came about after four months planning by a committee of volunteers within the Police Department. This project was nominated for the award and received unanimous approval of the IALEP Awards Committee.

Mayor Martin presented the award to Police Chief Will Annarino and thanked the Planning Committee for their efforts in receiving this award.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO A VARIANCE REQUEST FOR CREEKSIDE RETIREMENT COMMUNITY

Mayor Martin opened the public hearing at 5:20 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that Creekside will be a 46 unit retirement community located on a 7.75 acre site on Tsali Trail (the former Little Beaver Day Care site). All internal drives will be privately maintained. The developers are requesting a slight variance in the number of required parking spaces (from 92 to 84).

On September 21, 1995, a notice was sent by the Planning Department to 39 adjacent property owners making them aware of the October 11, 1995, public hearing held by the Planning and Zoning Commission.

At the Planning and Zoning Commission ("Commission") meeting on October 11, 1995, two people spoke about the proposal. Although not in opposition, concerns were expressed regarding the density of the development.

The City Planning staff recommended approval of the project with four conditions:

1) That the final landscape buffering plan be approved by the Planning Department;
2) Receipt of a letter confirming adequate water pressure for fire protection;
3) Compliance with the City's floodplain ordinance; and
4) That the variance request for a reduction in parking spaces be approved by City Council.

At their October 11, 1995, meeting, the Commission reviewed the request and voted unanimously to recommend that City Council approve this group development but deny the variance request for a reduction in parking. The following conditions were recommended:

1) That the final landscape buffering plan be approved by the Planning Department;
2) Receipt of a letter confirming adequate water pressure for fire protection; and
3) Compliance with the City's floodplain ordinance.

The Commission and the City Planning staff recommend approval of the group development with the aforementioned conditions being met. The Commission recommended denial of the parking variance request.

Upon inquiry of Vice-Mayor Peterson, Mr. Matteson said that because of the size of this project, it does fall under the City's stormwater ordinance and they will need to comply with it.

When Councilwoman Sitnick asked why the Commission recommended denial of the parking variance request, Mr. Matteson said that to his recollection, the Commission felt that the additional parking might be necessary.

Mayor Martin asked what the staff's feeling is regarding the variance request. Mr. Matteson said that staff does not make recommendations on variance requests. However, they feel like the parking scheme was well thought and well researched by the developers, and in light of that and combined with the benefits that you get with increased open space and decrease in pervious surface, the Planning staff doesn't have a problem with the variance request.

When Councilwoman Sitnick asked staff if they felt that two handicapped spaces would be sufficient for a 46 unit retirement community, Mr. Matteson responded that it's sufficient according to our zoning ordinance. The parking lot requires two spaces and most of the units do also have driveways and garages and can be handicapped equipped.

Councilwoman Sitnick applauded "any developer's effort to reduce pervious surface. I don't know what those extra spaces would be used for, whether it would be maintained in buffer or landscaping or natural, but I would like to approve this with the variance request for a reduction in parking spaces."

Mayor Martin pointed out that retired communities, typically, have fewer cars than two per family.

Mayor Martin closed the public hearing at 5:24 p.m.

Councilwoman Sitnick moved to approve the variance request to allow a reduction in the parking spaces from 92 to 84. This motion was seconded by Councilman McClure and carried unanimously.

Councilman Swicegood moved to approve the site plan subject to the three conditions recommended by the Planning & Zoning Commission (with the approval of the variance request). This motion was seconded by Councilman McClure and carried unanimously.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR WILSON CREEK SUBDIVISION

Mr. Gerald Green, Senior Planner, said that Advantage Development Company and WNC Habitat for Humanity is proposing the subdivision of a 12.26 acre tract into a 32 lot residential subdivision. A final plat has been prepared. The property is located off of Caribou Road. The developers have begun the construction of a new street which will provide access to the lots. The street will be constructed to City standards and will be dedicated to the City for ownership and maintenance. The proposed public road will provide access from Caribou Road. A letter of credit has been provided to the City to guarantee the construction of the road and of other public improvements.

The preliminary plat for this subdivision was reviewed and approved by the Planning & Zoning Commission at their October 11, 1995, meeting. The final plat and the letter of credit have been reviewed by the Legal Division, the Public Works Department, and the Planning Department.

The Planning Department staff recommends that City Council accept the final plat for Wilson Creek Subdivision with the following conditions: (1) the location of the water line and easement be indicted on the plat; (2) the address of the subdivision's owner be included on the plat; (3) the certificate of ownership be revised to reflect ownership by a corporation; (4) the sizes of the metal culverts be indicated; and (5) the size of the box culverts at the creek be noted.

Upon inquiry of Councilwoman Sitnick, Mr. Green stated that conditions (2) and (3) listed above have been complied with by the developer.

When Councilwoman Sitnick inquired about opposition to this project, Mr. Green said that most of the concerns have been addressed; however, there is still some need for improvements to the sewer line serving the Caribou Road area and MSD is aware of that. He felt that the developers have done a very good job in trying to work with the existing topography and maintain the existing vegetation to every extent possible.

Councilwoman Sitnick noted that she read in the paper that Habitat has been the first to be honored with a huge federal grant that is well deserved for the excellent work that they do.

Councilman McClure moved to approve the final plat for Wilson Creek Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

B. RESOLUTION NO. 95-160 - RESOLUTION AWARDING THE BID FOR STREET REHABILITATION PROJECT (CONTRACT NO. 12, PHASE I) TO APAC CAROLINA INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO

Mr. Tony Lewis, Interim Engineering Director, said that City Council approved $1.6 Million for street improvements for the 1995/96 budget. This project is known as Contract No. 12 Street Improvements. These funds were to be used for priority streets of the 43 streets identified.

The City Engineering Department has developed construction plans for Phase I street improvements on the following streets: Hazel Mill Road, Logan Avenue, Bear Creek Road, School Road and Wendover Road. The engineer's estimate for Phase I is $623,648.

The project was advertised for one month. On October 16, 1995, the Engineering Department received only one bid for the project. On October 31, 1995, bids were opened again and three bids were received: APAC-Carolina Inc. - $830,120.55; Paving Enterprises - $873,513.62; and Jones Grading - $987,915.75.

This project consists of associated sewer rehabilitation work for which the City will be reimbursed by Metropolitan Sewerage District of Buncombe County. The construction time for this project is identified as 108 calendar days.

Staff recommends awarding the low bid to APAC-Carolina Inc. in the amount of $830,120.55 for Street Improvements Project Contract No. 12, Phase I.

Upon inquiry of Councilwoman Sitnick about if any of these street improvements include any kind of pedestrian or bike access, Mr. Lewis said associated sidewalk repair would be with those streets that already have sidewalks. Sewer line repair will also be done in conjunction with this project. There are no associated bike baths.

Mr. Lewis answered Councilwoman Field's question relative to the engineer's estimate. He said that there were approximately 43 streets in the original engineer's estimate, which was $2.7 Million. City Engineering then re-engineered the project with the new project budget being $1.6 Million. The estimate for this project was done probably about 1-1/2 month ago, prior to the bid submittal.

Upon inquiry of when this project will get started, Mr. Lewis said they want to get started within the next ten days.

When Councilman McClure asked what the difference was between our bid and APAC's bid, Mr. Lewis said the amount was about $100,000 and the difference being in the aspect of asphalt materials.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilwoman Field moved for the adoption of Resolution No. 95-160. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 9

V. CONSENT:

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 17, 1995, AND THE WORKSESSION HELD ON OCTOBER 24, 1995

B. RESOLUTION NO. 95-161 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL AGREEMENT WITH THE N.C. DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF INSPECTING MUNICIPAL BRIDGES

Summary: A municipal agreement has been received from the N.C. Department of Transportation ("NC DOT") for having the City System bridges re-inspected. The Federal Highway Administration reimburses 80% of the bridge inspection cost which is estimated at $1,600 per bridge.

The City reimburses NC DOT for 20% of the cost for the bridges on the City Street System. The City has 24 bridges which qualify for inspection through the program. The City's share of the estimated cost will be $7,680 and funds are available in the City's bridge right-of-way fund of the Capital Improvement Program.

RESOLUTION BOOK NO. 23 - PAGE 10

C. **RESOLUTION NO. 95-162 - RESOLUTION OF INTENT TO CALL A PUBLIC HEARING ON NOVEMBER 28, 1995, TO CLOSE PARKWOOD PLACE BETWEEN HAYWOOD ROAD AND PATTON AVENUE**

RESOLUTION BOOK NO. 23 - PAGE 11

D. **RESOLUTION NO. 95-163 - RESOLUTION OF INTENT TO CALL A PUBLIC HEARING ON NOVEMBER 28, 1995, TO CLOSE A PORTION OF AN UNNAMED ALLEY BETWEEN ELIZABETH PLACE AND WOODLAWN AVENUE**

RESOLUTION BOOK NO. 23 - PAGE 12

E. **MOTION SETTING A PUBLIC HEARING ON NOVEMBER 14, 1995, TO CONSIDER DESIGNATING THE PROPERTY KNOWN AS "RANKIN HOUSE" LOCATED AT 5 WOODLAWN AS A LOCAL HISTORIC LANDMARK**

F. **RESOLUTION NO. 95-164 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL PARCEL 30 (LOT AT THE CORNER OF CURVE STREET AND ALEXANDER DRIVE) OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA**

Summary: The bid of Anthony J. Tozzi, in the amount of $6,210 is the higher of two bids received for the purchase of Disposal Parcel 30 in the East End/Valley Street Community Improvement Area in an amount not less than the established minimum price of $6,100.

Disposal Parcel 30 is a residential lot at the corner of Curve Street and Alexander Drive comprising 10,672 square feet. The bid from Anthony J. Tozzi for Disposal Parcel 30 includes the proposal to build a duplex, with each unit containing 3 bedrooms and 1-1/2 baths for his personal residence and rental at an anticipated cost of $107,340. Mr. Tozzi has applied for the Incentive Housing Program ($1 lot) subsidy.

RESOLUTION BOOK NO. 23 - PAGE 13

G. **RESOLUTION NO. 95-165 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL PARCEL 82 (FRAGMENT PARCEL AT THE CORNER OF HAZZARD STREET AND PINE STREET) OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA**

Summary: A bid has been received from Mr. and Mrs. Alfred Logan for the purchase of Disposal Parcel 82 in the East End/Valley Street Community Improvement Area at the established minimum price of $650.

Disposal Parcel 82 is a fragment parcel at the corner of Hazzard Street and Pine Street comprising 3,049 square feet. It does not meet the minimum standards for a buildable lot. Mr. and Mrs. Logan own a home adjacent to Disposal Parcel 82 and it is their intent to combine that parcel with their lot for additional yard space. Mr. and Mrs. Logan do not plan any construction on this parcel.

RESOLUTION BOOK NO. 23 - PAGE 14

Councilwoman Sitnick moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2247 - BUDGET AMENDMENT TO CONTINUE ADMINISTRATION OF AMERICANS WITH DISABILITIES ACT COMPLIANCE IN THE CITY'S PROGRAMS, SERVICES AND ACTIVITIES

Summary: A transfer of funds is needed to fund administrative costs for ADA compliance and to establish the 1995/96 ADA Capital Project appropriation as approved in the 1995/96 CIP.

The City is committed to continue to achieve ongoing improvement in its ADA compliance. In order to continue, funding for support staff and other resources is needed. A transfer of funds appropriated from the General Fund Contingency is needed to meet the funding requirements.

The funds would be used to continue additional staff support to assist the City ADA Coordinator and to improve ADA compliance in two parts based on approved CIP budget funds. The two parks approved for these funds are Murphy-Oakley Park and Weaver Park.

Staff requests Council approval in the transfer of funds from the General Fund Contingency in the amount of $25,000 for administrative costs and the transfer of $150,000 from the Non-Departmental Fund to the 1995/96 ADA Project as approved in the 1995/96 CIP.

ORDINANCE BOOK NO. 15 - PAGE 244

B. ORDINANCE NO. 2248 - BUDGET AMENDMENT TO APPROPRIATE FAIR HOUSING ASSISTANCE PROGRAM GRANT FUNDS

Summary: This budget amendment, in the amount of $16,700, is to appropriate Fair Housing Assistance Program grant funds.

ORDINANCE BOOK NO. 15 - PAGE 246

Councilwoman Field moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and final reading.

VI. OTHER BUSINESS:

A. COMMENTS BY DANIEL BREEN REGARDING MAYORAL CAMPAIGN

Mr. Daniel Breen urged the Mayoral candidates to not run negative campaigns. He felt that instead of polarizing the community into two rival camps, the leadership of the City needs to come together as one.

B. CLAIMS

The following claims were received by the City of Asheville during the week of October 6-19, 1995: Becky Wilson (Streets), Jeff Fobes (Streets), Kathy Hokestrom (Water), Steven Jackson (Parking Services), Dan Lewis (Streets), Dorothy Thomas (Streets), Travis Gilkeyson (Water), Tammy Strickland (Water), Scott Rickards (Streets), Charee Schulman (Civic Center), Anthony Barksdale (Water), Randy Todd (Water) and Wanda Burleson (Sanitation).

The following claims were received by the City during the week of October 20-25, 1995: Linda Reese (Water), Steve Dunn (Water), APAC (Water), Homer C. Reed (Water), Betty Daughtridge (Streets) and Tracey Martin (Water).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

C. PRIMARY ELECTION RESULTS - CITY OF ASHEVILLE, OCTOBER 10, 1995

Attached hereto as Exhibit "A" is the abstract containing the number of legal votes cast in the Primary Election, City of Asheville, held on October 10, 1995.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:42 p.m.

Magdalen Bandy
CITY CLERK

MAYOR

PRECINCT		H. K. EDGERTON	RUSS MARTIN	CHRIS J. PETERSON
01	ASHEVILLE 01	43	83	58
02	ASHEVILLE 02	103	173	77
03	ASHEVILLE 03	52	120	82
04	ASHEVILLE 04	34	557	130
05	ASHEVILLE 05	28	679	147
06	ASHEVILLE 06	38	430	182
07	ASHEVILLE 07	42	274	91
08	ASHEVILLE 08	91	169	65
09	ASHEVILLE 09	20	148	86
10	ASHEVILLE 10	60	68	54
11	ASHEVELLE 11	48	46	23
12	ASHEVILLE 12	11	93	60
13	ASHEVILLE 13	10	113	73
14	ASHEVILLE 14	23	122	62
15	ASHEVILLE 15	30	381	144
16	ASHEVILLE 16	28	240	112
17	ASHEVILLE 17	14	405	74
18	ASHEVILLE 18	8	241	57
19	ASHEVILLE 19	15	261	67
20	ASHEVILLE 20	9	02	35
21	ASHEVILLE 21	30	199	99
22	ASHEVILLE 22	24	404	98
23	ASHEVILLE 23	7	88	45
24	ASHEVILLE 24	10	130	78
00	AVERYS CREEK			
00	BILTMORE			
00	BLACK MTN. 01			
00	BLACK MTN. 02			
00	BLACK MTN. 03			
00	BLACK MTN 04			
00	BROAD RIVER			
00	FAIRVIEW			
00	FLAT CREEK			
00	FRENCH BROAD			
00	HAZEL 01			
00	HAZEL 02			
00	LOWER HOMINY 01			
00	LOWER HOMINY 02			
00	LOWER HOMINY 03			
00	UPPER HOMINY 01			
00	UPPER HOMINY 02			
00	IVY 01			
00	IVY 02			
00	LEICESTER			
00	LIMESTONE 01			
00	LIMESTONE 02			
00	NORTH BUNCOMBE			
00	REEMS CREEK			
00	REYNOLDS			
00	RICEVILLE			
00	SANDY MUSH			
00	SWANNANOA 01			
00	SWANNANOA 02			
00	WEAVERVILLE			
00	WEST BUNCOMBE			
00	WOODFIN			
00	WOODLAND HILLS			
58	ABSENTEE VOTERS	8	62	31
59	ELECT. DAY TRANSFERS	3	7	4
TOTAL		789	5,575	2,034

STATE OF NORTH CAROLINA -- BUNCOMBE COUNTY
PRIMARY ELECTION, CITY OF ASHEVILLE
OCTOBER 10, 1995

The County Board of Elections for said County, having opened, canvassed and judicially determined the original returns of the Primary Elections, City of Asheville, in the Asheville City Precincts of this county, held as above stated, we do certify that the above is a true abstract hereof, and contains the number of legal votes cast in the said precincts, according to the returns made to said Board, for the Primary Election.

This 12th day of October, 1995

IN TESTIMONY WHEREOF, I hereunto set my hand and affixed my notarial seal, this 12th day of October 1995

Trena D. Parker

My Commission Expires 6/14/2000

Talmage V. Penland
CHAIRMAN

Winona H. McDonnell
SECRETARY

Linda Reese
MEMBER

BUNCOMBE COUNTY BOARD OF ELECTIONS

110

EXHIBIT "A"

PRECINCT		BRADY M	BLACKBURN	BILL BRANYON	BOB BROWN	CHUCK CLONINGER
01	ASHEVILLE 01		41	22	19	80
02	ASHEVILLE 02		62	93	65	167
03	ASHEVILLE 03		51	46	37	99
04	ASHEVILLE 04		263	82	42	458
05	ASHEVILLE 05		418	44	33	545
06	ASHEVILLE 06		123	42	33	293
07	ASHEVILLE 07		101	33	31	196
08	ASHEVILLE 08		32	23	20	109
09	ASHEVILLE 09		47	13	26	106
10	ASHEVILLE 10		38	18	18	53
11	ASHEVELLE 11		31	7	4	53
12	ASHEVILLE 12		36	7	11	56
13	ASHEVILLE 13		25	8	16	95
14	ASHEVILLE 14		31	14	20	77
15	ASHEVILLE 15		106	26	47	238
16	ASHEVILLE 16		55	26	32	148
17	ASHEVILLE 17		205	40	25	319
18	ASHEVILLE 18		112	17	17	176
19	ASHEVILLE 19		138	8	17	208
20	ASHEVILLE 20		25	15	18	53
21	ASHEVILLE 21		68	32	18	133
22	ASHEVILLE 22		246	30	24	298
23	ASHEVILLE 23		31	7	6	52
24	ASHEVILLE 24		45	2	23	78
00	AVERYS CREEK					
00	BILTMORE					
00	BLACK MTN 01					
00	BLACK MTN. 02					
00	BLACK MTN 03					
00	BLACK MTN. 04					
00	BROAD RIVER					
00	FAIRVIEW					
00	FLAT CREEK					
00	FRENCH BROAD					
00	HAZEL 01					
00	HAZEL 02					
00	LOWER HOMINY 01					
00	LOWER HOMINY 02					
00	LOWER HOMINY 03					
00	UPPER HOMINY 01					
00	UPPER HOMINY 02					
00	IVY 01					
00	IVY 02					
00	LEICESTER					
00	LIMESTONE 01					
00	LIMESTONE 02					
00	NORTH BUNCOMBE					
00	REEMS CREEK					
00	REYNOLDS					
00	RICEVILLE					
00	SANDY MUSH					
00	SWANNANOA 01					
00	SWANNANOA 02					
00	WEAVERVILLE					
00	WEST BUNCOMBE					
00	WOODFIN					
00	WOODLAND HILLS					
58	ABSENTEE VOTERS		36	10	8	50
59	ELECT. DAY TRANSFERS		5	3	2	8
	TOTAL:		2,371	668	612	4,148

OFFICE NUMBER. 105 OFFICE: CITY COUNCIL

PRECINCT		EARL COBB	CAROL COLLINS	RONNIE DAVIS	KEN EDWARDS
01	ASHEVILLE 01	9	39	24	16
02	ASHEVILLE 02	5	50	34	20

00	WEST BUNCOMBE				
00	WOODFIN				
00	WOODLAND HILLS				
58	ABSENTEE VOTERS	36	10	8	50
59	ELECT. DAY TRANSFERS	5	3	2	8
	TOTAL:	2,371	668	612	4,148

OFFICE NUMBER: 105 OFFICE: CITY COUNCIL

PRECINCT	EARL COBB	CAROL COLLINS	RONNIE DAVIS	KEN EDWARDS
01	ASHEVILLE 01	9	39	24	16
02	ASHEVILLE 02	5	50	34	20
03	ASHEVILLE 03	5	53	43	18
04	ASHEVILLE 04	20	121	74	37
05	ASHEVILLE 05	14	132	81	33
06	ASHEVILLE 06	49	180	129	113
07	ASHEVILLE 07	7	54	44	22
08	ASHEVILLE 08	13	86	83	31
09	ASHEVILLE 09	15	75	57	34
10	ASHEVILLE 10	6	37	29	18
11	ASHEVELLE 11		9	14	6
12	ASHEVILLE 12	18	31	56	33
13	ASHEVILLE 13	25	37	70	22
14	ASHEVILLE 14	11	57	71	41
15	ASHEVILLE 15	143	145	193	96
16	ASHEVILLE 16	78	131	101	52
17	ASHEVILLE 17	10	103	38	22
18	ASHEVILLE 18	15	77	29	18
19	ASHEVILLE 19	18	79	32	22
20	ASHEVILLE 20	7	30	19	9
21	ASHEVILLE 21	19	75	77	66
22	ASHEVILLE 22	22	120	62	40
23	ASHEVILLE 23	4	54	14	12
24	ASHEVILLE 24	46	60	70	29
00	AVERYS CREEK				
00	BILTMORE				
00	BLACK MTN 01				
00	BLACK MTN 02				
00	BLACK MTN 03				
00	BLACK MTN 04				
00	BROAD RIVER				
00	FAIRVIEW				
00	FLAT CREEK				
00	FRENCH BROAD				
00	HAZEL 01				
00	HAZEL 02				
00	LOWER HOMINY 01				
00	LOWER HOMINY 02				
00	LOWER HOMINY 03				
00	UPPER HOMINY 01				
00	UPPER HOMINY 02				
00	IVY 01				
00	IVY 02				
00	LEICESTER				
00	LIMESTONE 01				
00	LIMESTONE 02				
00	NORTH BUNCOMBE				
00	REEMS CREEK				
00	REYNOLDS				
00	RICEVILLE				
00	SANDY MUSH				
00	SWANNANOA 01				
00	SWANNANOA 02				
00	WEAVERVILLE				
00	WEST BUNCOMBE				
00	WOODFIN				
00	WOODLAND HILLS				
[redacted]	ABSENTEE VOTERS	4	18	4	9
[redacted]	DAY TRANSFERS		4	2	1

PRECINCT		BARBARA FIELD	ANDREW (BEAR) GENTRY	EDWARD HAY	GENE JOHNSON
01	ASHEVILLE 01	113	11	72	26
02	ASHEVILLE 02	148	20	187	54
03	ASHEVILLE 03	152	10	125	34
04	ASHEVILLE 04	438	24	492	88
05	ASHEVILLE 05	559	20	542	118
06	ASHEVILLE 06	304	22	281	160
07	ASHEVILLE 07	250	21	215	44
08	ASHEVILLE 08	160	7	111	57
09	ASHEVILLE 09	126	12	76	70
10	ASHEVILLE 10	102	13	68	26
11	ASHEVELLE 11	59	6	54	9
12	ASHEVILLE 12	69	13	52	28
13	ASHEVILLE 13	101	5	71	32
14	ASHEVILLE 14	95	8	65	53
15	ASHEVILLE 15	260	18	178	104
16	ASHEVILLE 16	175	17	107	85
17	ASHEVILLE 17	305	17	304	53
18	ASHEVILLE 18	169	1	166	52
19	ASHEVILLE 19	213	3	170	66
20	ASHEVILLE 20	62	7	55	27
21	ASHEVILLE 21	136	14	167	82
22	ASHEVILLE 22	322	14	343	79
23	ASHEVILLE 23	42	2	51	55
24	ASHEVILLE 24	87	3	59	59
00	AVERYS CREEK				
00	BILTMORE				
00	BLACK MTN 01				
00	BLACK MTN. 02				
00	BLACK MTN. 03				
00	BLACK MTN 04				
00	BROAD RIVER				
00	FAIRVIEW				
00	FLAT CREEK				
00	FRENCH BROAD				
00	HAZEL 01				
00	HAZEL 02				
00	LOWER HOMINY 01				
00	LOWER HOMINY 02				
00	LOWER HOMINY 03				
00	UPPER HOMINY 01				
00	UPPER HOMINY 02				
00	IVY 01				
00	IVY 02				
00	LEICESTER				
00	LIMESTONE 01				
00	LIMESTONE 02				
00	NORTH BUNCOMBE				
00	REEMS CREEK				
00	REYNOLDS				
00	RICEVILLE				
00	SANDY MUSH				
00	SWANNANOA 01				
00	SWANNANOA 02				
00	WEAVERVILLE				
00	WEST BUNCOMBE				
00	WOODFIN				
00	WOODLAND HILLS				
58	ABSENTEE VOTERS	50	3	53	13
59	ELECT. DAY TRANSFERS	9	1	6	
	TOTAL:	4,506	292	4,070	1,474

OFFICE NUMBER: 105 OFFICE: CITY COUNCIL

PRECINCT		ELIZABETH (LIZ) JOLLIFF	FRED H. MARTIN	LISA MARTIN	ROCK MCCLURE
01	ASHEVILLE 01	13	18	52	71
02	ASHEVILLE 02	25	25	75	104

113

00	WEST BUNCOMBE												
00	WOODFIN												
00	WOODLAND HILLS												
58	ABSENTEE VOTERS	50		3				53				13	
59	ELECT. DAY TRANSFERS	9		1				6					
	TOTAL	4,506		292				4,070				1,474	

ENR14 ABSTRACT: 01 BUNCOMBE COUNTY DATE: 10/12/95 TIME: 10:10 PAGE: 5

OFFICE NUMBER: 105 OFFICE: CITY COUNCIL

PRECINCT	ELIZABETH (LIZ) JOLLIFF	FRED H. MARTIN	LISA MARTIN	ROCK MCCLURE
01 ASHEVILLE 01	13	18	52	71
02 ASHEVILLE 02	35	25	75	106
03 ASHEVILLE 03	26	38	61	89
04 ASHEVILLE 04	39	75	123	194
05 ASHEVILLE 05	55	134	163	257
06 ASHEVILLE 06	126	172	178	206
07 ASHEVILLE 07	48	91	71	86
08 ASHEVILLE 08	44	56	102	125
09 ASHEVILLE 09	32	56	97	120
10 ASHEVILLE 10	20	17	58	60
11 ASHEVELLE 11	13	16	23	26
12 ASHEVILLE 12	23	14	46	57
13 ASHEVILLE 13	15	28	28	59
14 ASHEVILLE 14	17	31	50	75
15 ASHEVILLE 15	57	90	137	189
16 ASHEVILLE 16	32	56	101	142
17 ASHEVILLE 17	29	52	74	124
18 ASHEVILLE 18	28	46	82	113
19 ASHEVILLE 19	29	60	76	109
20 ASHEVILLE 20	23	32	34	39
21 ASHEVILLE 21	55	79	84	95
22 ASHEVILLE 22	30	59	126	190
23 ASHEVILLE 23	16	29	43	55
24 ASHEVILLE 24	17	44	66	92
00 AVERYS CREEK				
00 BILTMORE				
00 BLACK MTN. 01				
00 BLACK MTN. 02				
00 BLACK MTN. 03				
00 BLACK MTN. 04				
00 BROAD RIVER				
00 FAIRVIEW				
00 FLAT CREEK				
00 FRENCH BROAD				
00 HAZEL 01				
00 HAZEL 02				
00 LOWER HOMINY 01				
00 LOWER HOMINY 02				
00 LOWER HOMINY 03				
00 UPPER HOMINY 01				
00 UPPER HOMINY 02				
00 IVY 01				
00 IVY 02				
00 LEICESTER				
00 LIMESTONE 01				
00 LIMESTONE 02				
00 NORTH BUNCOMBE				
00 REEMS CREEK				
00 REYNOLDS				
00 RICEVILLE				
00 SANDY MUSH				
00 SWANNANOA 01				
00 SWANNANOA 02				
00 WEAVERVILLE				
00 WEST BUNCOMBE				
00 WOODFIN				
[redacted] ODLAND HILLS				
[redacted] SENTEE VOTERS	10	11	17	3
[redacted] DAY TRANSFERS	1	1	1	4

PRECINCT	BRUCE W. MILLER	TIM MOFFITT	REBECCA MOSES	TOMMY Q. SELLERS
01	ASHEVILLE 01	13	31	16	45
02	ASHEVILLE 02	9	40	15	119
03	ASHEVILLE 03	14	40	25	75
04	ASHEVILLE 04	28	84	24	316
05	ASHEVILLE 05	30	100	20	371
06	ASHEVILLE 06	52	134	44	271
07	ASHEVILLE 07	13	46	21	110
08	ASHEVILLE 08	20	43	35	64
09	ASHEVILLE 09	18	59	26	83
10	ASHEVILLE 10	5	26	18	51
11	ASHEVELLE 11	2	7	12	38
12	ASHEVILLE 12	8	29	30	116
13	ASHEVILLE 13	5	41	14	154
14	ASHEVILLE 14	18	61	16	136
15	ASHEVILLE 15	32	125	62	381
16	ASHEVILLE 16	31	73	34	261
17	ASHEVILLE 17	13	45	20	235
18	ASHEVILLE 18	23	60	28	137
19	ASHEVILLE 19	26	68	16	173
20	ASHEVILLE 20	12	22	19	37
21	ASHEVILLE 21	64	52	30	147
22	ASHEVILLE 22	29	88	32	222
23	ASHEVILLE 23	36	40	3	71
24	ASHEVILLE 24	29	57	25	140
00	AVERYS CREEK				
00	BILTMORE				
00	BLACK MTN. 01				
00	BLACK MTN. 02				
00	BLACK MTN. 03				
00	BLACK MTN 04				
00	BROAD RIVER				
00	FAIRVIEW				
00	FLAT CREEK				
00	FRENCH BROAD				
00	HAZEL 01				
00	HAZEL 02				
00	LOWER HOMINY 01				
00	LOWER HOMINY 02				
00	LOWER HOMINY 03				
00	UPPER HOMINY 01				
00	UPPER HOMINY 02				
00	IVY 01				
00	IVY 02				
00	LEICESTER				
00	LIMESTONE 01				
00	LIMESTONE 02				
00	NORTH BUNCOMBE				
00	REEMS CREEK				
00	REYNOLDS				
00	RICEVILLE				
00	SANDY MUSH				
00	SWANNANOA 01				
00	SWANNANOA 02				
00	WEAVERVILLE				
00	WEST BUNCOMBE				
00	WOODFIN				
00	WOODLAND HILLS				
58	ABSENTEE VOTERS	11	11	6	43
59	ELECT DAY TRANSFERS			1	6
	TOTAL	540	1,382	592	3,802

ENR14 ABSTRACT 01 BUNCOMBE COUNTY DATE: 10/12/95 TIME 10 10 PAGE 7

OFFICE NUMBER 105 OFFICE. CITY COUNCIL

PRECINCT	JIM SKALSKI	HERBERT (WATT DADDY) WATTS	CHARLES R WORLEY
01	ASHEVILLE 01	44	110	76
02	ASHEVILLE 02	209	181	127

00	WEST BUNCOMBE					
00	WOODFIN					
00	WOODLAND HILLS					
58	ABSENTEE VOTERS	11	11	6	43	
59	ELECT. DAY TRANSFERS			1	6	
	TOTAL	540	1,382	592	3,802	

OFFICE NUMBER: 105 OFFICE: CITY COUNCIL

PRECINCT	JIM SKALSKI	HERBERT (WATT DADDY) WATTS	CHARLES R WORLEY
01 ASHEVILLE 01	44	110	76
02 ASHEVILLE 02	209	181	127
03 ASHEVILLE 03	113	137	112
04 ASHEVILLE 04	350	138	466
05 ASHEVILLE 05	280	180	577
06 ASHEVILLE 06	231	209	307
07 ASHEVILLE 07	324	116	187
08 ASHEVILLE 08	86	209	122
09 ASHEVILLE 09	63	112	122
10 ASHEVILLE 10	37	151	67
11 ASHEVELLE 11	42	96	45
12 ASHEVILLE 12	55	61	89
13 ASHEVILLE 13	45	62	112
14 ASHEVILLE 14	58	91	94
15 ASHEVILLE 15	168	145	298
16 ASHEVILLE 16	106	133	173
17 ASHEVILLE 17	268	110	295
18 ASHEVILLE 18	110	76	190
19 ASHEVILLE 19	135	92	198
20 ASHEVILLE 20	51	44	51
21 ASHEVILLE 21	155	86	168
22 ASHEVILLE 22	198	117	333
23 ASHEVILLE 23	68	34	80
24 ASHEVILLE 24	34	65	96
00 AVERYS CREEK			
00 BILTMORE			
00 BLACK MTN. 01			
00 BLACK MTN. 02			
00 BLACK MTN. 03			
00 BLACK MTN. 04			
00 BROAD RIVER			
00 FAIRVIEW			
00 FLAT CREEK			
00 FRENCH BROAD			
00 HAZEL 01			
00 HAZEL 02			
00 LOWER HOMINY 01			
00 LOWER HOMINY 02			
00 LOWER HOMINY 03			
00 UPPER HOMINY 01			
00 UPPER HOMINY 02			
00 IVY 01			
00 IVY 02			
00 LEICESTER			
00 LIMESTONE 01			
00 LIMESTONE 02			
00 NORTH BUNCOMBE			
00 REEMS CREEK			
00 REYNOLDS			
00 RICEVILLE			
00 SANDY MUSH			
00 SWANNANOA 01			
00 SWANNANOA 02			
00 WEAVERVILLE			
00 WEST BUNCOMBE			
00 WOODFIN			
[redacted] AND HILLS			
[redacted] ABSENTEE VOTERS	29	28	60
[redacted] DAY TRANSFERS	8	5	7

Wednesday - November 8, 1995 - 2:00 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Vice-Mayor Chris Peterson

Also Present: Council Members Elect Charles Cloninger, Thomas G. Sellers, James J. Skalski and Charles R. Worley

ADA ISSUES

Administrative Policy for ADA Compliance

Mr. Lyle Willis, ADA Coordinator, said that during the course of the City's efforts to comply with the Americans with Disabilities Act, procedures have been established to assist employees and the public in acquiring equal access to the City's programs, services, activities and facilities. The culmination of these procedures is the assembly of the proposed Administrative Policy as written conveyance of the City's ongoing commitment to compliance with this federally mandated Act.

Councilwoman Sitnick said that the PACE Committee has been working with Mr. Willis as ADA Coordinator. She invited the public to the final community meeting that the PACE Committee is sponsoring. The meeting will be at 6:30 p.m., on Monday, November 13, 1995, in the Public Works Building.

Councilman Watts, who is a member of the ADA Compliance Committee, commended Mr. Willis for the work accomplished to date with this policy.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

ADA Compliance - Interim Report - February 1 - November 1, 1995

Mr. Lyle Willis, ADA Coordinator, said that he was appointed the City's ADA Coordinator and given direction to bring the City into compliance was soon as possible with the guidelines of the American with Disabilities Act, a federal civil rights law which came into effect in 1992, with the deadline for compliance established as January 26, 1996.

Mr. Willis then outlined his efforts for the past eight months to adhere to the federal regulations and addressed in a systematic fashion activities to bring the City into compliance. He also outlined his goals for the coming months.

ORDINANCE AMENDING CHAPTER 19 REGARDING PARKING REGULATIONS TO AUTHORIZE THE USE OF WHEEL LOCKS FOR FAILURE TO PAY PARKING TICKETS

Mr. Larry Fisher, Finance Director, said that the City Council requested special authorization from the N.C. General Assembly to use wheel locks on certain illegally parked vehicles. The N.C. General Assembly provided that authority to the City in Chapter 75 of the 1995 N. C. Session Laws.

This ordinance would authorize the use of wheel locks to immobilize vehicles which are illegally parked when there are three or

more unpaid and overdue parking tickets which are outstanding for a period of 90 days or more. A notice would be placed on the vehicle setting forth the $25.00 immobilization fee and the address and phone number to use to have the vehicle released. If the parking penalties and immobilization fee were not paid within 24 hours, the vehicle would be towed and the owner would also have to pay the towing and storage fees.

The owner of the vehicle would have the right of a hearing before the City Manager or his/her designee. No further appeals are included.

The ordinance also makes it unlawful to remove, damage or destroy a wheel lock. To allow time for the wheel lock to arrive, an effective date of January 1, 1996, is proposed.

Councilwoman Field said that need have a good balance with these wheel locks. Asheville is a tourist City and we need to be tourist and user friendly; however, our local citizens should not be misusing the parking.

Councilwoman Sitnick felt that the 15 day grace period after the notice has been sent was too lenient since they've already had sufficient time within which to pay.

Councilman McClure suggested that a section in the agreement to set up a payment schedule include language that if the person defaults on their payment arrangements, the City can go out and install the locks.

When Councilwoman Sitnick asked about the citizen paying for the cost of the certified letter, Mr. Slawter responded that there is no specific way in place to collect for that cost.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

RECOGNIZE AND ENDORSE THE EAGLE/MARKET STREETS DEVELOPMENT CORPORATION

Mr. Marvin Vierra, Community Development Director, said that the Eagle/Market Streets Development Corporation is a non-profit Community Development Corporation ("CDC"). The purpose of the CDC is to facilitate the physical redevelopment of the Eagle/Market Street area "The Block." The purpose further is to create an atmosphere conducive to African American entrepreneurship through provision of technical assistance and access to resources.

The Board of Directors of the CDC is composed of property owners, tenants, grassroots and community leaders.

The Eagle/Market Streets Development Corporation has requested a resolution from City Council approving and endorsing the Eagle/Market Streets Development Corporation.

Mr. Vierra answered various questions from Council, some being, but not limited to, the discussions last year concerning the consultant Mr. Johnson, the Eagle/Market Streets CDC obtaining their 501 (c) (3) status and the YMI CDC not obtaining that status; and what will happen when the YMI CDC does obtain that status - will they also ask for a letter of support and endorsement.

When Councilwoman Sitnick asked if the Council ordinarily did resolutions in support of a CDC, Mr. Vierra responded that they did not because this is the first time the City has had two CDC's in the area.

As a result of some questions from Council, Mr. Vierra said that the two CDC's are working together on their own and the City will only be dealing with the Eagle/Market Streets CDC. They feel like this resolution will assist them in accelerating the redevelopment of "The Block."

Councilwoman Sitnick asked for a copy of the members of the board for the YMI CDC, since she already had a copy of the Eagle/Market Streets CDC.

Councilwoman Sitnick (in referring to a letter dated September 6, 1994, from Dr. John H. Grant, Chairman of the Board of Directors of the Eagle/Market Streets Development Corporation) said that she was not in agreement with the content in the letter which reads "The Eagle/Market Streets Development Corporation was organized as a direct result of both the hiring, efficient and exemplary work of the F.A. Johnson Consulting Group, Inc. F.A. Johnson's experience, expertise, professionalism, thoroughness, ability to build community consensus, organize and mobilize people, in short, his effectiveness in getting things done, have been most impressive!" She, along with Councilman Swicegood, said that they could not agree with that as part of the request.

Councilwoman Sitnick cited various questions that she would like responded to prior to taking any action on this request, some being, what is phase II planning, does Council really know what they're doing, which redevelopment plan are they using, etc. She said that the whole point of bringing redevelopment into the City was for the accountability and with so many unanswered questions, she didn't feel comfortable with the request.

At this point Dr. John Grant arrived at the meeting and Council reiterated some of its concerns to him. Dr. Grant tried to respond to some of the questions stating that Mr. Matthew Bacoate is Chair of the YMI CDC board of directors and the membership list would have to be obtained from him; the two CDC's board of directors met and voted unanimously to maintain separate identities but to work together in a joint venture, when deemed appropriate; the information in the letter Councilwoman Sitnick and Councilman Swicegood did not support was a decision made by both CDC board of directors; the YMI CDC felt they needed to maintain their identity in terms of cultural focus and the Eagle/Market Streets CDC needed to maintain their identity to maintain the redevelopment in that area; the two CDC's have agreed to meet quarterly, when necessary; and the YMI CDC has agreed to work with the Eagle/Market Streets CDC with the Eagle/Market Streets CDC being the lead agency.

Councilwoman Sitnick suggested, and it was the consensus of Council, that the Housing & CD Committee discuss this item at their next meeting on November 30, 1995.

As a result of information exchanged, Council asked that a joint letter from the Eagle/Market Streets CDC and the YMI CDC be received to the effect that the YMI CDC has agreed to work with the Eagle/Market Streets CDC with the Eagle/Market Streets CDC being the lead agency;

CLOSED SESSION

At 2:52 p.m., Councilwoman Sitnick moved to go into closed session to instruct the City staff regarding the position to be taken by the City concerning the acquisition of real property located at 41 Eve Lake Drive as authorized by G.S. 143-318.11 (a) (5). This motion was seconded by Councilman Swicegood and carried unanimously.

At 3:27 p.m., Councilman Swicegood moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION TO AUTHORIZE EXECUTION OF A CONTRACT WITH McGILL ASSOCIATES, P.A., TO PROVIDE ENGINEERING AND SITE DESIGN SERVICES FOR SUNSET HEIGHTS SUBDIVISION

This item was deleted from the agenda.

REPORT ON GEOTECHNICAL STUDY AT RICHMOND HILL PROPERTY

Mr. Irby Brinson, Director of Parks & Recreation, said that the Parks and Recreation Department was asked to proceed with geotechnical boring and testing for Richmond Hill Park. The data would help determine the feasibility of grading the site for a single baseball field with the ability to expand the project to a four baseball field complex.

Staff obtained the services of Law Engineering and Environmental Services, Inc., who are currently under an hourly bid contract with the Parks and Recreation Department to recommend the location and number of boring sites and perform the testing based upon the baseball field complex. The conceptual design of the complex by staff included two 225' fields, two 150' fields, rest room facility, drive, and a parking lot. The Parks & Recreation Department cleared the vegetation necessary for testing truck access by using old logging roads as much as possible. After the testing was performed the City Engineering Department surveyed the location of each test boring site for future planning and design.

The test results from the boring sites within the project area indicate that bedrock was found below the anticipated finished elevation of the proposed complex (determined from the preliminary design) with the exception of the parking lot area where partially weathered rock or refusal materials were encountered at an approximate elevation of 2123 which is about 3 feet above the proposed finished elevation. In addition the soils are suitable for grading, building foundations, and the development of roads.

The geotechnical testing and report indicate that it would be likely and feasible to grade and build the park project as shown on the conceptual plans without encountering rock which would be prohibitive in nature and cost for much of the site. Nevertheless, a rock allowance should be considered for the project in case of possible variations in elevation of rock between the test boring sites and the parking lot area.

Staff will utilize this information in refining cost estimates for the development of a Richmond Hill Park. This cost estimate will be utilized as park priorities are evaluated by the Parks & Recreation Commission and subsequently presented to City Council.

Upon inquiry of Councilwoman Sitnick, Mayor Martin said that the City is continuing to look into the Lake Craig property for recreation

purposes. Councilman McClure noted that Buncombe County Commissioner David Young did say that the County would provide the funding for Lake Craig if the City would purchase the property.

Mr. Brinson also explained that progress to date with regard to the 40 acres in Woodfin.

Councilman Watts his appreciation to Mr. Brinson and his staff for all the work they have done.

PARKS AND RECREATION REORGANIZATION BRIEFING

Mr. Irby Brinson, Director of Parks & Recreation, said that in an effort to meet the mission of the City of Asheville by providing professional and efficient services responsive to community needs, the following reorganization will take place January 1, 1996, in Parks and Recreation.

The Department will be divided into three divisions: Recreation Program, Park and Facility Maintenance, and Administration. This reorganization represents a reduction from seven divisions to three divisions. The Superintendent of Recreation will supervise the operations of the **Recreation Program Division** which will include all recreation centers, after school/day camp program, festivals/cultural events, athletics, and special populations. In addition, the recreation centers' supervision will be divided among three current supervisors. In the past one person has supervised the operation of 11 recreation centers resulting in limited control over operations which has effected the quality of community service we provide.

All park and facility maintenance responsibilities will now be incorporated under the supervision of the Superintendent of Parks and Public Facilities. Furthermore, the **Park and Facility Maintenance Division** will be structured into the four basic areas: Park Maintenance (includes Landscape/Grass Crew, Janitorial/Festivals, Mechanics/Office, and Maintenance/Repair), Facility Maintenance, City Hall Services, and ADA/Contracting. The operations of the City Hall Snack Shop will be contracted which will result in a savings of approximately $30,000 to the City. The former full-time position within this division will be transferred to Park Maintenance to provide supervision to the newly formed Janitorial/Festivals crew. Furthermore, hours will be structured within Park Maintenance to allow for split crews which will allow us to perform maintenance to our facilities and programs over weekends and to provide staff assistance for special events during non-traditional work time. By restructuring these crews, we will reduce overtime within this division by 75% representing a savings of approximately $15,000 per year.

The **Administrative Division** will be supervised by the Superintendent of Administration. The responsibilities for this position will include marketing of programs for the department, grant administration, and staff development. In addition, this position will supervise Riverside Cemetery, the clerical staff, and the Landscape

Architect. This position will be able to explore grant possibilities for facility development, staff development, and program expansion that would help increase the level of service at no additional cost to the City of Asheville.

He said that this report is presented for City Council's information only.

Councilwoman Sitnick stressed the need for a full-time grants officer noting that the City needed to find some sources of revenue. City Manager Westbrook responded that the City has found it more productive to have a person in each appropriate department, like police and parks, because they know exactly what the needs of that department are. He did say, however, that he would be glad to look at a consolidated grants officer.

Upon inquiry of Councilwoman Field, Mr. Brison explained how the reorganization came about, noting that his staff is comfortable with the changes.

City Manager Westbrook answered Councilwoman Field question about the addition of a middle management level.

When Councilman Watts asked about the concession stand at Walton Street Park, Mr. Brinson replied that they will be constructing a small concession area in the building and it's in the plans to have that completed next year.

Councilwoman Sitnick appreciated Mr. Brinson and his staff for their willingness to meet with Haw Creek area to find possible land for a park. She thanked Mr. Brinson, Mr. Kopf and staff for going out to Malvern Hills Park and working affirmatively with MSD. She was also appreciative the efforts of Ben Wax and Marshall Logan on the youth listening project. Even though the group has not gotten into the schools yet, she hoped the new Council would continue with the project because it has been developed and it's a good proposal to work with.

CONSENT AGENDA

Flame Retardant Trousers for the Fire Department

Summary: Sealed bids were received to furnish 525 pair of flame retardant trousers for the Fire Department. Nine bids were received. Staff recommends that the award be made to the second low bidder as the lowest bidder meeting specifications, Whole Armor Uniform Company Inc., in the amount of $25,961.25 for 525 pair of Topps Style No. 73021 Fibrous Flame Retardant Fiber Trousers. The following bids were received:

Vendor	Net Cost
R&R Uniforms, Asheville, NC	$28,806.75
Zimmerman-Evans, Greensboro, NC	$28,812.00
Carolina Firemasters, Bennettsville, SC	$30,712.50
Kay Uniforms, Kingsport, TN	$30,922.50
Carolina Safety Association, Arcadia, SC	$35,700.00
Newton's Fire & Safety, Swepsonville, NC	$22,312.50
Whole Armor Uniforms, Asheville, NC	$25,961.25
Mid-America Uniforms, New Albany, IN	$27,930.00
Whole Armor Uniforms, Asheville, NC	$28,481.25

The low bidder, Newton's Fire and Safety Company, Swepsonville, NC, took exceptions to our specifications which requires the successful bidder to perform local measuring sessions to determine size and alteration needs for 175 firefighters receiving trousers.

Funds for this purchase are to be from the Fire Department's appropriations.

Final Plat for Stonebridge Subdivision

Summary: The Planning & Zoning Commission approved the preliminary subdivision plat for Stonebridge Subdivision on Old Haw Creek Road (formerly known as Royal Palms Subdivision) on 3/1/95. The developer, Mike Pierce, Biltmore Development Company, is seeking final plat approval for 20 lots in Phase I of the Subdivision.

The 68 single family lots for patio homes received variances from the Board of Adjustment for building setbacks on 12/5/94. Other variances granted to the developer were the reduction of the road width to a minimum of 40 feet on 8/22/95 and a driveway clearance variance for two of the lots now numbered 4 and 5 from the Board of Adjustment on 10/16/95.

The Water and Engineering Departments have approved of the installation of water lines in the Phase I development. They do insist that the developer relocate the water meter on Lot 7 to the front of the lot. The developer has indicated that he would relocate the meter on 11/3/95.

The Public Works Department has inspected the street system in Phase I and found that the work completed meets Public Works construction standards. This does not mean that the City has accepted the streets in Phase I at this time, but that they will accept the streets when the final paving is completed and the developer requests acceptance by the City. No letter of credit was required by the Public Works Department for the last layer of paving.

Because the final layer of paving is not completed on Phase I at this time, it would be to the City's advantage to have all phases of this project completed before accepting the streets and to the developer's advantage to hold off on the final paving layer until the total construction is complete. This will eliminate the damage to this finish paving that results from construction activities.

The developer also needs to furnish documentation on the acceptance of a sewer easement for the relocation of a portion of the MSD line. This must be done before MSD will assume public maintenance of the system. The developer has stated that he will have the easement prepared and approved by MSD before the date of Council's final action.

Staff recommends approval of the final plat for Stonebridge Subdivision - Phase I (20 lots) with the following conditions: (1) relocation of the water meter on Lot 7 to the front of the lot; and (2) acceptance of the sewer easement by MSD.

Amendments to Indenture of Trust between Asheville Claims Corporation and NationsBank, N.A.

Summary: This matter pertains to the City's self-insurance program. In order to implement the program, the City entered into a Claims Administration Contract effective September 1, 1993, with Asheville Claims Corporation. The Corporation has assigned certain of

its interests in the Contract under an Indenture of Trust to NationsBank. NationsBank has notified the Corporation that it is selling its corporate trust business and, therefore, will no longer be able to provide these services. The City Finance Director, who also serves as the President of Asheville Claims Corporation, discussed this matter with Donald P. Ubell, the special counsel who assisted in establishing this program and prepared the legal documents which put it in place. The action changes the Corporation's Trustee from NationsBank, N.A., to First Union National Bank of North Carolina. This resolution will authorize the signing of the consent documents necessary on the part of the City to permit the corporation to make these changes.

When Councilman McClure asked if the City was paying for these services, Mr. Larry Fisher, Finance Director, said that we were.

Councilman McClure then asked if we put this out for bid. Mr. Fisher replied that he asked bond counsel (Donald Ubell) who was capable of providing these services. Mr. Eubell said that there are two organizations - First Union and Wachovia. He said they decided not to select Wachovia because Wachovia is already the letter of credit provider in this transaction and they felt it would be a conflict of interest so they did not solicit Wachovia.

Councilman McClure said that he didn't realize that there were only two banks that could provide that service. Mr. Fisher replied that he thought that there probably were more banks that could do that; however, First Union is a North Carolina bank, their fees are competitive, they have actively solicited business from the City; and they are approved by bond counsel.

Councilman McClure was concerned that this did not go out for bid because if people don't know about items like this, they are not going to actively solicit the business.

Mr. Fisher said that actually Asheville Claims Corporation would engage First Union. The reason this matter is before the Council at all is because the City has a claims administration contract with Asheville Claims Corporation. Since the City is a party to the transaction, the Corporation has to get the City's consent to change the trustee.

Request of Bike Nut Inc. to Assign the Lease of the Premises at 5 Biltmore Avenue to Henry Robert Miller Jr. and Theodore S. Warner

Summary: The City of Asheville acquired title to certain properties on Biltmore Avenue along with the transfer of Redevelopment from the Housing Authority. All of the properties currently leased and occupied.

5 Biltmore Avenue is currently leased to Bike Nut Inc., which is owned by Chris Hardwicke. Mr. Hardwicke operates Be Here Now, a music hall which also serves wine, beer and non-alcoholic beverages. Be Here Now has been open since about August of 1992.

Bike Nut Inc. is selling Be Here Now to Henry Robert Miller Jr. and Theodore S. Warner, who own and operate Gatsby's, a music, food and beverage establishment located at 13 Walnut Street. Bike Nut Inc. proposes to assign the lease to Mr. Miller and Mr. Warner. Mr. Hardwicke will remain as an employee of Mr. Miller and Mr. Warner in charge of booking entertainment. Mr. Miller and Mr. Warner plan to expand the club to include food and mixed drinks.

Mr. Miller and Mr. Warner will assume all of the obligations and responsibilities of Bike Nut Inc. under the lease and the rights of the City of Asheville under the lease will remain fully enforceable. The lease permits assignment of the lease upon approval by the Lessor and provides that approval may not be unreasonably withheld.

Mayor Martin asked the City Attorney if he would have a conflict of interest on this matter because one of the men that will assume the obligations under this lease is a client of his. City Attorney Slawter replied that he saw no conflict.

Intent to Close a Portion of Skyline Drive between Skyline Parkway and Skyview Place, all of Skyline Parkway, all of an unnamed road between Skyline Drive and West View Road near the intersection of Oak Park Road, and all of an unnamed road between West View Road and Skyline Drive and setting a public hearing for December 19, 1995

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

OTHER BUSINESS

ABC Board

On October 31, 1995, the City Council intended to appoint Mr. James A. Green to the ABC Board. However, due to a conflict of interest Mr. Green was unable to serve.

Councilwoman Field moved to place this appointment on the next Council's formal meeting to reappoint Mr. Eugene Ellison to the ABC Board to additional three year term, term to expire November 13, 1998, or until his successor is appointed. This motion was seconded by Councilman Watts and carried unanimously.

PACE Committee

Councilwoman Sitnick reminded the public of the next PACE Committee meeting to be held at 6:30 p.m., on Monday, November 13, 1995, in the Public Works Building.

Wooden Walls on Biltmore Avenue

Councilwoman Sitnick instructed the City Manager to remind the Planning Department to check on the feasibility of using students from Asheville High to paint building faces on the wooden walls on Biltmore Avenue. She also noted that she has asked the Chamber of Commerce to sponsor some downtown kiosks for flyer use.

County Appointees Voting on City Matters

Councilwoman Sitnick asked Council to consider the whole issue of whether County appointees to the Planning & Zoning Commission and the Board of Adjustment should be voting on City issues. She felt they should only be voting on matters in the extraterritorial jurisdiction.

City Manager Westbrook said that he would bring a report to Council at a worksession.

School Summit

After determining that City Council would not be holding a school summit, Councilwoman Sitnick felt that the City Council was wrong in not holding a public meeting with taxpayers about their concerns with the schools and how we can deal with those concerns. She said that she had no intention on discussing personnel matters at the school summit. The reason that she felt it was important for City Council to meet with the public was so that next time we meet with the School Board we would be fully informed in our ability to ask questions and address issues that have come up to us as members of Council.

Mayor Martin said that Council will be scheduling a meeting with the School Board.

NC Department of Transportation Public Hearing

Councilwoman Sitnick felt that Council might be interested in attending a NC Department of Transportation public hearing on Monday, November 13, 1995, in which the intersection in front of the Asheville Mall will be discussed. The owner of Frank's Roman Pizza, who has been a local businessman in Asheville for 20 years, is a taxpayer, a good job provider, etc., will be expressing concern about the possible demolition of his business.

Visioning Process Meeting

Mayor Martin invited the public to a town hall meeting at 7:00 p.m. on Thursday, November 16, 1995, at A-B Tech.

Ralph Bishop

Mr. Ralph Bishop commented that citizens are not afforded the opportunity to speak at these public meetings.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:12 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - November 14, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Also Present: Councilmen Elect Charles Cloninger, Edward C. Hay Jr., Tommy G. Sellers, James J. Skalski and Charles R. Worley

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF NOVEMBER 19-26, 1995, AS "CHRISTIAN HERITAGE WEEK"

Mayor Martin read the proclamation proclaiming the week of November 19-26, 1995, as "Christian Heritage Week" in the City of Asheville. He presented the proclamation to Ms. Libby Bagwell who quoted some esteemed leaders noting that our government was formed by men and women who firmly believed that no country could thrive without God as its ultimate leader.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CLOSE NICHOLS STREET

RESOLUTION NO. 95-166 - RESOLUTION TO PERMANENTLY CLOSE NICHOLS STREET

Mayor Martin opened the public hearing at 5:08 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Assistant Public Works Director Larry Ward said that a petition has received from Harry's Cadillac-Pontiac-GMC Truck Company Inc. requesting that Nichols Street be permanently closed to public use. The petition received includes signatures of all property owners adjoining the portions of streets being petitioned for closing. No property owner in the area would be deprived of reasonable means of ingress or egress from their property.

The Public Works staff recommends the petition to close Nichols Street be approved.

Mayor Martin closed the public hearing at 5:10 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 95-166. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 15

B. PUBLIC HEARING TO CLOSE AN UNNAMED ALLEY RUNNING SOUTH FROM ASTON STREET TO HILLIARD AVENUE BETWEEN ASHLAND AVENUE AND COXE AVENUE

Mayor Martin opened the public hearing at 5:11 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Assistant Public Works Director Larry Ward said that a petition has received from Harry's Cadillac-Pontiac-GMC Truck Company Inc. requesting that the portion of an unnamed alley, which is really a part of old Federal Alley, be closed running south from Aston Street to Hilliard Avenue between Ashland Avenue and Coxe Avenue be permanently closed to public use. The alleyway is actually open all the way through. By use of a map, he pointed out a portion of that alley had sometime been closed or was never actually a public alleyway. The petition received includes signatures of all property owners adjoining the portions of streets being petitioned for closing. No property owner in the area would be deprived of reasonable means of ingress or egress from their property.

The Public Works staff recommends the petition to close the unnamed alley running south from Aston Street to Hilliard Avenue between Ashland Avenue and Coxe Avenue be approved.

City Attorney Slawter said that it has recently come to his attention that a nearby property owner indicated that he had an interest in this alleyway remaining open and also indicated that he had not received notice of the alley closing. He explained that the reason for that is that typically on an alley closing, the owners immediately adjacent to the portion of the alley to be closed are given notice. It's unusual to have an alley which is being closed mid-way through a block like this. The resolution of intent calling for a public hearing today has been posted on the alley and has been run in the newspaper indicating the public hearing today. He felt it is appropriate for Council to consider any comments of anyone here today but based upon the nearby property owner's comments, and in order to cure any potential defect that would be associated with that, he suggested continuing the public hearing for two weeks. During that two week period, notice will be sent to these additional property owners giving them an opportunity to be heard. Also, in order to alleviate any burden that might be placed on any adjoining property owner, the people who are acquiring this lot had talked with us about providing an easement through the lot which this alley runs. The people who will be purchasing from Harry's Cadillac, First Union Bank, said that they would give an easement to allow traffic to come out of the alleyway over to Coxe Avenue. We will hope to finalize the details of that easement within the next two weeks as well.

Councilwoman Sitnick asked if there were any other conditions that exist in the alley that we need to question as far as cost to the City for maintenance. By use of the map, Mr. Ward pointed out the portion of the alley that the City Street Division does not maintain, noting that they are public rights-of-way, but they are not City maintained alleys. He also used the map to show there is storm drainage that will be maintained by the City because a portion of it is on the public right-of-way. He felt there would be no problem for us to maintain the drain

because the main drain is not actually on the alley right-of-way. There is a portion of an inlet that leads into that main drain and he felt the City would probably need to maintain an easement just for that.

Mr. Jim Hughes, adjacent property owner, stated that he was not notified of this proposed alley closing. He pointed out where his property lies. He wondered why the notice read that it was an "unnamed alley" since the alley has a sign on it naming it Federal Alley. If Mr. Ward was correct in that a specific portion of the alley was already closed, he would be in favor of the closing. However, he wanted to make sure that the closing extended down to include his property. He wanted to tie it into one petition.

Mayor Martin said that Council could not consider including his property at this time. He would need to contact the Public Works Department on the proper procedure to close an alley.

When Mr. Hughes asked who the correct person was to tell him if that portion of the alley has already been closed, Mr. Ward responded that he would prefer to double-check the records and he would notify Mr. Hughes if that portion of the alley is actually closed.

Councilwoman Sitnick moved to continue this public hearing until November 28, 1995. This motion was seconded by Councilwoman Field and carried unanimously.

C. PUBLIC HEARING RELATIVE TO DESIGNATING THE RANKIN HOUSE AT 5 WOODLAWN AS A LOCAL HISTORIC LANDMARK

At the request of the petitioner, this item has been withdrawn from the agenda.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR STONEBRIDGE SUBDIVISION

Mr. Gerald Green, Senior Planner, said that the Planning & Zoning Commission approved the preliminary subdivision plat for Stonebridge Subdivision on Old Haw Creek Road (formerly known as Royal Palms Subdivision) on March 1, 1995. The developer, Mike Pierce, Biltmore Development Company, is seeking final plat approval for 20 lots in Phase I of the Subdivision.

The 68 single family lots for patio homes received variances from the Board of Adjustment for building setbacks on December 5, 1994. Other variances granted to the developer were the reduction of the road width to a minimum of 40 feet on August 22, 1995, and a driveway clearance variance for two of the lots now numbered 4 and 5 from the Board of Adjustment on October 16, 1995.

The Water and Engineering Departments have approved of the installation of water lines in the Phase I development. They insisted that the developer relocate the water meter on Lot 7 to the front of the lot, which he has done.

The Public Works Department has inspected the street system in Phase I and found that the work completed meets Public Works construction standards. This does not mean that the City has accepted the streets in Phase I at this time, but that they will accept the

streets when the final paving is completed and the developer requests acceptance by the City. No letter of credit was required by the Public Works Department for the last layer of paving.

Because the final layer of paving is not completed on Phase I at this time, it would be to the City's advantage to have all phases of this project completed before accepting the streets and to the developer's advantage to hold off on the final paving layer until the total construction is complete. This will eliminate the damage to this finish paving that results from construction activities.

The developer also needed to furnish documentation on the acceptance of a sewer easement for the relocation of a portion of the MSD line. The developer has said that MSD has approved the sewer easement and it will be recorded along with the final plat.

Councilwoman Field moved for the final plat approval of Stonebridge Subdivision This motion was seconded by Councilman Watts and carried unanimously.

B. RESOLUTION NO. 95-167 - RESOLUTION APPROVING THE CITY OF ASHEVILLE'S ADMINISTRATIVE POLICY FOR COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

Mr. Lyle Willis, ADA Coordinator, said that during the course of the City's efforts to comply with the Americans with Disabilities Act, procedures have been established to assist employees and the public in acquiring equal access to the City's programs, services, activities and facilities. The culmination of these procedures is the assembly of the proposed Administrative Policy as written conveyance of the City's ongoing commitment to compliance with this federally mandated Act.

Councilwoman Sitnick commented that she was happy to work with Mr. Willis on the PACE Committee and they are weaving all the conditions and requirements at the outset of this project.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Watts moved for the adoption of Resolution No. 95-167. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 16

C. ORDINANCE NO. 2249 - ORDINANCE AMENDING CHAPTER 19 REGARDING PARKING REGULATIONS TO AUTHORIZE THE USE OF WHEEL LOCKS FOR FAILURE TO PAY PARKING TICKETS

Mr. Larry Fisher, Finance Director, said that the City Council requested special authorization from the N.C. General Assembly to use wheel locks on certain illegally parked vehicles. The N.C. General Assembly provided that authority to the City in Chapter 75 of the 1995 N. C. Sess. Laws.

This ordinance would authorize the use of wheel locks to immobilize vehicles which are illegally parked when there are three or more unpaid and overdue parking tickets which are outstanding for a period of 90 days or more. A notice would be placed on the vehicle setting forth the $25.00 immobilization fee and the address and phone number to use to have the vehicle released. If the parking penalties

and immobilization fee were not paid within 24 hours, the vehicle would be towed and the owner would also have to pay the towing and storage fees.

The owner of the vehicle would have the right of a hearing before the City Manager or his/her designee. No further appeals are included.

The ordinance also makes it unlawful to remove, damage or destroy a wheel lock. To allow time for the wheel lock to arrive, an effective date of January 1, 1996, is proposed.

He said the 20 top offenders in our system have over 1,600 citations outstanding. Our efforts to collect utilizing civil processes have been ineffective. We felt this device, which will be used judiciously, will help us collect revenue due to the City.

We did not utilize a dollar amount because citations have different dollar values and we were concerned that if we used $100, that might be 20 $5 tickets, but it is the value of one handicapped citation. So we did it on a combination of number of citations outstanding and time outstanding versus a dollar amount.

Upon inquiry of Councilman McClure, Mr. Fisher said that there is over $250,000 outstanding in the system at this time.

Upon request of Councilwoman Field, Mr. Fisher explained how the public will be warned about their cars being wheel locked.

Councilwoman Sitnick said that it seemed to her "that we know the license plates of these vehicles for the most part and allowing people one more chance when they have been so in arrears in obeying the law, just says to me that we'll give you another chance to either be honest or not. And I just wish we didn't have to give people another chance with $250,000 owed to the City."

Councilwoman Sitnick asked what was the reason we decided that these names could not be listed in the paper. City Attorney Slawter said that there are General Statutes in North Carolina regulating methods for which bills can be collected and to publish names of people who owe bills to a creditor would be illegal under that Act.

Vice-Mayor Peterson said that he remembered in the Fees and Charges Committee meeting that a dollar amount was going to be used. Revenue Collector Deborah Crowder responded that at the beginning of discussions that was true. However, then the State increased the maximum amount for a handicapped violation to $100 and we thought that because that one citation being that large of an amount that it would be better to state the number of violations, as opposed to a dollar figure.

At the request of Vice-Mayor Peterson, Mr. Fisher said that the first person on the top 20 list owes the City $3,088.

When Councilwoman Sitnick asked why can't the City boot the top 20 without another violation, Ms. Crowder responded that in order to allow them due process before we actually place a physical device on their vehicle. She felt it was in the City's best interest that we notify them in writing so that they would then have no recourse with the City.

Mayor Martin suggested, and City Council agreed, that since we have their names and their address, we will send them a letter indicating that the next time their vehicles are caught illegally parked, they will get booted. This will be handled internally.

Upon inquiry of Councilwoman Sitnick, Mr. Fisher said that the top 20 offenders owe the City $25,564.

Councilman Watts said that he would like to see an article in the paper when the first car that gets booted to send a message to the community that we are strongly supporting this ordinance.

Councilman-Elect Charles Worley stated that he totally supported the ordinance. He wondered if the person's car was only worth $2,000 and he owed $3,000, could the City sell the car and collect the money? City Attorney Slawter responded there is no authorization under the enabling legislation to give the City a lien against the car.

Councilwoman Sitnick suggested the next Council request that authorization from the legislative delegation.

Mr. Chris Johansen questioned if City staff has considered the possibility, once parking tickets are issued, of selling the debt to a private collection agency since it seems to be the collection that is the problem. Mr. Fisher responded that we are using a collection agency with some measure of success. ,We do, however, lose 50 cents on the dollar. The essential ingredient here is that we don't have a forceful enforcement mechanism and he felt adoption of this ordinance will give that to them.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2249. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2249 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 248

V. CONSENT:

Councilwoman Sitnick asked that item A be removed from the consent agenda for discussion.

Councilwoman Field asked that item F be removed from the consent agenda for discussion.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 31, 1995, AND THE WORKSESSION HELD ON NOVEMBER 8, 1995

This item was removed from the Consent Agenda to be discussed below.

B. RESOLUTION NO. 95-168 - RESOLUTION TO AWARD BID TO PURCHASE FLAME RETARDANT TROUSERS FOR THE ASHEVILLE FIRE DEPARTMENT TO WHOLE ARMOR UNIFORM COMPANY, INC., ASHEVILLE, NORTH CAROLINA

Summary: Sealed bids were received to furnish 525 pair of flame retardant trousers for the Fire Department. Nine bids were received. Staff recommends that the award be made to the second low bidder as the lowest bidder meeting specifications, Whole Armor Uniform Company Inc.,

in the amount of $25,961.25 for 525 pair of Topps Style No. 73021 Fibrous Flame Retardant Fiber Trousers. The following bids were received:

Vendor	Net Cost
R&R Uniforms, Asheville, NC	$28,806.75
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Kay Uniforms, Kingsport, TN	$30,922.50
Carolina Safety Association, Arcadia, SC	$35,700.00
Newton's Fire & Safety, Swepsonville, NC	$22,312.50
Whole Armor Uniforms, Asheville, NC	$25,961.25
Mid-America Uniforms, New Albany, IN	$27,930.00
Whole Armor Uniforms, Asheville, NC	$28,481.25

The low bidder, Newton's Fire and Safety Company, Swepsonville, NC, took exceptions to our specifications which requires the successful bidder to perform local measuring sessions to determine size and alteration needs for 175 firefighters receiving trousers.

Funds for this purchase are to be from the Fire Department's appropriations.

RESOLUTION BOOK NO. 23 - PAGE 17

C. RESOLUTION NO. 95-169 - RESOLUTION REAPPOINTING A MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Summary: The term of Eugene Ellison expires on November 13, 1995. This resolution will reappoint Mr. Ellison to an additional three year term, term to expire November 13, 1998, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 20

D. RESOLUTION NO. 95-170 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: Keith Green has resigned from the Civic Center Commission. This resolution will appoint Richard Bowman to serve the unexpired term of Mr. Green, term to expire June 30, 1996, or until his successor is appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 21

E. RESOLUTION NO. 95-171 - RESOLUTION OF INTENT TO ANNEX THAT PORTION OF CITY-OWNED PROPERTY KNOWN AS RICHMOND HILLS AND SETTING A PUBLIC HEARING ON THE MATTER FOR NOVEMBER 28, 1995

RESOLUTION BOOK NO. 23 - PAGE 22

F. RESOLUTION TO APPROVE THE REQUEST OF BIKE NUT INC. TO ASSIGN THE LEASE OF THE PREMISES AT 5 BILTMORE TO MILNERIS INC.

This item was removed from the Consent Agenda to be discussed below.

G. RESOLUTION NO. 95-172 - RESOLUTION OF INTENT TO CLOSE SKYLINE DRIVE BETWEEN SKYLINE PARKWAY AND SKYVIEW PLACE, ALL OF SKYLINE PARKWAY, ALL OF AN UNNAMED ROAD BETWEEN SKYLINE

DRIVE AND WEST VIEW ROAD NEAR THE INTERSECTION OF OAK PARK ROAD, AND ALL OF AN UNNAMED ROAD BETWEEN WEST VIEW ROAD AND SKYLINE DRIVE AND SETTING A PUBLIC HEARING FOR DECEMBER 19, 1995

RESOLUTION BOOK NO. 23 - PAGE 25

H. **MOTION SETTING A PUBLIC HEARING ON NOVEMBER 28, 1995, TO REZONE LOT LOTS AT 401 OLD COUNTY HOME ROAD FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CS COMMERCIAL SERVICE DISTRICT**

I. **MOTION SETTING A PUBLIC HEARING ON NOVEMBER 28, 1995, TO AMEND THE SUBDIVISION REGULATIONS TO PERMIT THE CREATION OF NON-RESIDENTIAL LOTS WHICH DO NOT ABUT A PUBLIC STREET**

J. **RESOLUTION NO. 95-173 - RESOLUTION CONSENTING TO AMENDMENTS TO THE INDENTURE OF TRUST BETWEEN ASHEVILLE CLAIMS CORPORATION AND NATIONSBANK, N.A., TO THE CHANGE THE CORPORATION'S TRUSTEE FROM NATIONSBANK, N.A., TO FIRST UNION NATIONAL BANK OF NORTH CAROLINA**

Summary: This matter pertains to the City's self-insurance program. In order to implement the program, the City entered into a Claims Administration Contract effective September 1, 1993, with Asheville Claims Corporation. The Corporation has assigned certain of its interests in the Contract under an Indenture of Trust to NationsBank. NationsBank has notified the Corporation that it is selling its corporate trust business and, therefore, will no longer be able to provide these services. The City Finance Director, who also serves as the President of Asheville Claims Corporation, discussed this matter with Donald P. Ubell, the special counsel who assisted in establishing this program and prepared the legal documents which put it in place. The action changes the Corporation's Trustee from NationsBank, N.A., to First Union National Bank of North Carolina. This resolution will authorize the signing of the consent documents necessary on the part of the City to permit the corporation to make these changes.

RESOLUTION BOOK NO. 23 - PAGE 27

Councilwoman Sitnick moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Watts and carried unanimously.

ITEMS TO BE CONSIDERED PULLED FROM THE CONSENT AGENDA:

A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 31, 1995, AND THE WORKSESSION HELD ON NOVEMBER 8, 1995**

Councilwoman Sitnick asked that the minutes of the November 8, 1995, City Council meeting be amended to include the following sentence (which is underlined) on page 10 under the matter entitled "School Summit": After determining that City Council would not be holding a school summit, Councilwoman Sitnick felt that the City Council was wrong in not holding a public meeting with taxpayers about their concerns with the schools and how we can deal with those concerns. She said that she had no intention on discussing personnel matters at the school summit. <u>The reason that she felt it was important for City Council to meet with the public was so that next time we meet with the School Board we would be fully informed in our ability to ask questions and address issues that have come up to us as members of Council.</u>"

She also asked the record indicate that she had requested the scheduling of the meeting with the School Board to occur within her term on Council. She said that if that was not done at the November 8, 1995, meeting to find the appropriate date that it was, and amend those minutes to reflect her comments.

B. RESOLUTION NO. 95-174 - RESOLUTION TO APPROVE THE REQUEST OF BIKE NUT INC. TO ASSIGN THE LEASE OF THE PREMISES AT 5 BILTMORE TO MILNERIS INC.

Summary: The City of Asheville acquired title to certain properties on Biltmore Avenue along with the transfer of Redevelopment from the Housing Authority. All of the properties currently leased and occupied.

5 Biltmore Avenue is currently leased to Bike Nut Inc., which is owned by Chris Hardwicke. Mr. Hardwicke operates Be Here Now, a music hall which also serves wine, beer and non-alcoholic beverages. Be Here Now has been open since about August of 1992.

Bike Nut Inc. is selling Be Here Now to Henry Robert Miller Jr. and Theodore S. Warner. Milneris Inc. owns and operates Gatsby's, a music, food and beverage establishment located at 13 Walnut Street. Bike Nut Inc. proposes to assign the lease to Milneris. Mr. Hardwicke will remain as an employee of Mr. Miller and Mr. Warner in charge of booking entertainment. Milneris plans to expand the club to include food and mixed drinks.

Milneris Inc. will assume all of the obligations and responsibilities of Bike Nut Inc. (Hardwicke) under the lease and the rights of the City of Asheville under the lease will remain fully enforceable. Mr. Miller and Mr. Warner will additionally provide personal guarantees to the City for the performance of the terms of the lease. The lease permits assignment of the lease upon approval by the Lessor and provides that approval may not be unreasonably withheld.

Councilwoman Field said that it has been brought to her attention that there is a lawsuit pending and asked the City Attorney if it would have any affect on our assignment of the lease.

City Attorney Slawter said that there was a lawsuit filed involving some of the principles in this. The assignment that the Council will be approving is of a lease that the Housing Authority entered into in 1992 with Bike Nut Inc. Mr. Hardwicke is the principle in that corporation. The assignment would be from the corporation, Bike Nut Inc., to the new operators who would be Milneris Inc. He said that the lawsuit that was filed is a lawsuit filed by Landmark Management against Mr. Hardwicke regarding a conflict arising out of a lease of an adjacent piece of property on Pack Square. It appears to be a dispute between Landmark Management and Mr. Hardwicke relating to alleged money owed by Mr. Hardwicke in connection with the lease of that adjacent property. He did not see any relationship between the two or why it would be a problem for the assignment to Milneris Inc. from Bike Nut Inc.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Vice-Mayor Peterson moved to adopt Resolution No. 95-174. This motion was seconded by Councilman Swicegood and carried unanimously.

VI. OTHER BUSINESS:

A. POSSIBLE CANCELLATION OF NOVEMBER 28, 1995, CITY COUNCIL MEETING

Vice-Mayor Peterson noted that there may be a need to cancel the regular meeting of the City Council on November 28, 1995, due to a lack of quorum.

Mayor Martin encouraged all Councilmembers to be present or notify the City Clerk if they would not be in other that rescheduling of items can take place.

B. COMMENTS BY COUNCILWOMAN SITNICK REGARDING (1) A MEETING WITH THE SCHOOL BOARD, (2) ARNIE JINGLE, (3) FRUSTRATION AND DISAPPOINTMENT WITH NC DOT REGARDING STORM GRATE AT THE CORNER OF MERRIMON AND MURDOCK, (4) SENIOR MANAGER FOR THE WATER BONDS, (5) HIRING OF A CITY ARBORIST, AND (6) FEEDBACK TO COUNCIL AND PUBLIC REGARDING COMPLAINTS

Councilwoman Sitnick asked that "if the Council can schedule a meeting with the School Board before my term is up, I would appreciate it. If not, I'll understand.

Mayor Martin said that Council would certainly invite her if the meeting was not scheduled before her term is up.

Councilwoman Sitnick encouraged "the Council again to do an ARNIE campaign to advertise ARNIE to do a jingle contest. To change the name, if necessary, to make sure that the public knows that there is some access for information on what we're doing up here."

Councilwoman Sitnick said that she "would like to state my disappointment and my frustration with the Department of Transportation. It has been almost a year that I have been requesting, through Jim Ewing first, through Larry Ward second, through Mark Combs third, through Mark Slaughter, all of whom have paid particular attention to this request of mine - and I thank you all in Public Works - requesting the DOT to repair a sunken storm grate on the corner of Merrimon and Murdock. I don't know whether it's because the street has been resurfaced so many times that it seems to be disappearing into the ground, but I have had people call me to tell me that they've hit that hole and had their mufflers slammed against the pavement so hard that it's actually snapped mufflers off of the cars. Right in front of the Hop. If you don't know it's there, you have to swing way out to avoid it and then you can hit cars that are coming in the opposite direction. If you go over it, you have injured your car in one way or another. I know it's there and I hit it sometimes because you can't avoid it. The DOT have been dragging their feet on this and I just want that in the record."

Councilwoman Sitnick said that "in going over the letter of confirmation from the senior manager for the water bonds that we designated that apropos of the comments I've made into the record earlier about concerns about a local company hogging the bonds, it's clear that the company designated as senior manager is going to keep 70% of the bonds, which is just what I said would happen."

Councilwoman Sitnick said that she "would like to know, since Mark Combs is not here, if Larry was designated to give us an update on my request for the City to look into the hiring a City arborist."

City Manager Westbrook said that Mark has completed some initial investigation of what other cities are doing. He sent the information back and asked for more. Mr. Combs' investigation thus far had dealt with cities that have full-time arborists on staff. There are a number of cities, probably more than the ones we contacted that have full-time arborists, that have part-time or arborists who are retired urban foresters who help staff out on an as-needed basis. He asked him to go back and survey those cities. It was his intention to make a recommendation to the Council, as a part of the budget process, on how we should proceed on that. He hoped to use part-time or retired folks who are experts in that field to help us with trees on public rights-of-way.

Councilwoman Sitnick said that "I think it's important for the Council to know that an arborist would be a great asset to the City. George Briggs at the Arboretum had commented awhile back that there might be someone there who would be willing to either volunteer or participate on an as-needed basis. I know that the streetscape plan would benefit greatly by having an arborist as a consultant. And I certainly hope the new Council at least looks into the merits of this request."

Councilwoman Sitnick said that she has "requested the City Manager find a simple mechanism that would allow, when a member of Council makes a request that comes from the public to staff that, there be some kind of feedback either to the Council member or to the member of the public that has made the request through a Council member - that the issue has been taken up or handled. And the reason I say that is, I will give you one example - I could give you several thousand, at least two thousand examples. I got a postcard a month ago from a man who said that, and I'll give you this paraphrased, I hear that you're not just all talk, talk, talk, let's see if you can get this done. Why don't you clean up the dirt under the I-240 overpass on Central Avenue. This is about a month ago, postcard. I immediately called Mark Combs. I know that Public Works went out and cleaned up that area. They actually swept the street from Woodfin to Orange, on both sides. We also know that's an area that just has a lot of wind tunneling under it and it seems like whatever debris is within a half of mile gets tornadoed under that overpass. I called home a little while ago and my husband said that I got a very disturbing postcard from a guy who accused me of being all talk and just your typical City politician who gets nothing done because I didn't get that area cleaned up. I would like some kind of simple mechanism that when a member of the public makes a request, somebody gets back to that member, to that member of the public, or the Council member that's made the request so that we know what's been done so that we don't have to make the phone call to follow up on that."

Mayor Martin said that there is a complaint form that Council members can fill out to affect that.

City Manager Westbrook said that "we've been trying to work with each Council member the way they would like to have that handled. Some may not want to fill out a form, they just want to make a phone call. We want to handle it whatever way the Council member chooses. Actually, the process is in place and we should be calling you back. I'm glad we took care of the problem, but I'm disturbed that you were not called back - because it's a matter of some discussion in our meetings that we have - the job is not complete until you notify the customer or the Council member on what the situation is. In many cases we can't resolve it the way the citizen wants it because of legal or other possible problems, but we still need to let them know and follow-up."

Councilwoman Sitnick said that "most citizens are reasonable and will be happy just for a phone call to be informed that it's being looked into. This guy did not sign the postcard I got today, but he did sign the other one. I'm going to pull it from my files and I would like somebody from the City to call him."

C. COMMENTS BY H.K. EDGERTON

Mr. H.K. Edgerton had several comments and questions, some being, but are not limited to: (1) that the investigation into the Minority Business Plan disparity study should be done by an independent body, not internally; (2) how the City defined "minority"; (3) why the NAACP has been denied a seat on the Minority Business Commission; (4)

Mr. Edgerton thanked the Councilmembers individually and collectively for their service during the past two years.

City Manager Westbrook responded to some of the items brought up by Mr. Edgerton.

D. CLAIMS

The following claims were received by the City of Asheville during the week of October 27-November 2, 1995: Sandra Green (Police) and Bobbie Salzer-Rae (Water).

The following claims were received during the week of November 3-9, 1995: Sea-Nic Etn. (Streets), Elizah U. Jones (Police), Rickie D. Morrow (Water), Myra Grozinger (Inspections) and Carol Kemp (Traffic Engineering).

These claims have been referred to Asheville Claims Corporation for investigation.

E. GENERAL ELECTION RESULTS - CITY OF ASHEVILLE, NOVEMBER 7, 1995

Attached hereto as Exhibit "A" is the abstract containing the number of legal votes cast in the General Election, City of Asheville, held on November 7, 1995.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:05 p.m.

Magdalen Bowerson
CITY CLERK

MAYOR

X2ENR14 ABSTRACT: 01 BUNCOMBE COUNTY DATE: 11/09/95 TIME: 09 39 PAGE:
OFFICE NUMBER: 100 OFFICE: MAYOR OF ASHEVILLE

PRECINCT		RUSS MARTIN	CHRIS J. PETERSON
01	ASHEVILLE 01	143	118
02	ASHEVILLE 02	329	189
03	ASHEVILLE 03	261	165
04	ASHEVILLE 04	787	219
05	ASHEVILLE 05	892	215
06	ASHEVILLE 06	578	360
07	ASHEVILLE 07	421	165
08	ASHEVILLE 08	307	217
09	ASHEVILLE 09	222	185
10	ASHEVILLE 10	178	122
11	ASHEVELLE 11	92	75
12	ASHEVILLE 12	138	108
13	ASHEVILLE 13	164	122
14	ASHEVILLE 14	170	139
15	ASHEVILLE 15	476	254
16	ASHEVILLE 16	340	225
17	ASHEVILLE 17	533	128
18	ASHEVILLE 18	408	93
19	ASHEVILLE 19	401	129
20	ASHEVILLE 20	121	62
21	ASHEVILLE 21	303	186
22	ASHEVILLE 22	566	172
23	ASHEVILLE 23	124	59
24	ASHEVILLE 24	198	146
00	AVERYS CREEK		
00	BILTMORE		
00	BLACK MTN. 01		
00	BLACK MTN 02		
00	BLACK MTN 03		
00	BLACK MTN 04		
00	BROAD RIVER		
00	FAIRVIEW		
00	FLAT CREEK		
00	FRENCH BROAD		
00	HAZEL 01		
00	HAZEL 02		
00	LOWER HOMINY 01		
00	LOWER HOMINY 02		
00	LOWER HOMINY 03		
00	UPPER HOMINY 01		
00	UPPER HOMINY 02		
00	IVY 01		
00	IVY 02		
00	LEICESTER		
00	LIMESTONE 01		
00	LIMESTONE 02		
00	NORTH BUNCOMBE		
00	REEMS CREEK		
00	REYNOLDS		
00	RICEVILLE		
00	SANDY MUSH		
00	SWANNANOA 01		
00	SWANNANOA 02		
00	WEAVERVILLE		
00	WEST BUNCOMBE		
00	WOODFIN		
00	WOODLAND HILLS		
58	ABSENTEE VOTERS	147	50
59	ELECT. DAY TRANSFERS	11	4
TOTAL		8,310	3,907

STATE OF NORTH CAROLINA -- BUNCOMBE COUNTY
GENERAL ELECTION, CITY OF ASHEVILLE
NOVEMBER 7, 1995

The County Board of Elections for said County, having opened, canvassed and judicially determined the original returns of the General Election, CITY OF ASHEVILLE, in the city of Asheville precincts of this county, held as above stated, we do certify that the above is a true abstract hereof, and contains the number of legal votes cast in the said precincts, according to the returns made to said Board, for the Genera Election.

This 9th day of November, 1995

IN TESTIMONY WHEREOF, I hereunto set my hand and affixed my notarial seal, this 9th day of November 1995.

Trena D. Parker

My Commission Expires 6/14/2000

Talmage Pendarvis
CHAIRMAN

Winona McDonnell
SECRETARY

Linda Riese
MEMBER

BUNCOMBE COUNTY BOARD OF ELECTIONS

EXHIBIT "A"

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PRECINCT	BRADY M BLACKBURN	CHUCK CLONINGER	CAROL COLLINS	BARBARA FIELD
01 ASHEVILLE 01	81	101	98	161
02 ASHEVILLE 02	147	244	204	274
03 ASHEVILLE 03	158	205	159	264
04 ASHEVILLE 04	517	678	252	673
05 ASHEVILLE 05	639	755	246	779
06 ASHEVILLE 06	314	508	390	501
07 ASHEVILLE 07	221	336	148	401
08 ASHEVILLE 08	122	174	237	272
09 ASHEVILLE 09	123	174	205	207
10 ASHEVILLE 10	50	75	163	125
11 ASHEVELLE 11	47	41	74	88
12 ASHEVILLE 12	85	115	94	134
13 ASHEVILLE 13	100	128	106	155
14 ASHEVILLE 14	84	104	142	134
15 ASHEVILLE 15	245	358	307	392
16 ASHEVILLE 16	184	220	273	276
17 ASHEVILLE 17	342	473	146	463
18 ASHEVILLE 18	256	318	176	274
19 ASHEVILLE 19	236	340	166	326
20 ASHEVILLE 20	66	96	71	109
21 ASHEVILLE 21	174	238	229	245
22 ASHEVILLE 22	429	459	220	490
23 ASHEVILLE 23	61	89	106	77
24 ASHEVILLE 24	107	149	213	142
00 AVERYS CREEK				
00 BILTMORE				
00 BLACK MTN. 01				
00 BLACK MTN. 02				
00 BLACK MTN. 03				
00 BLACK MTN. 04				
00 BROAD RIVER				
00 FAIRVIEW				
00 FLAT CREEK				
00 FRENCH BROAD				
00 HAZEL 01				
00 HAZEL 02				
00 LOWER HOMINY 01				
00 LOWER HOMINY 02				
00 LOWER HOMINY 03				
00 UPPER HOMINY 01				
00 UPPER HOMINY 02				
00 IVY 01				
00 IVY 02				
00 LEICESTER				
00 LIMESTONE 01				
00 LIMESTONE 02				
00 NORTH BUNCOMBE				
00 REEMS CREEK				
00 REYNOLDS				
00 RICEVILLE				
00 SANDY MUSH				
00 SWANNANOA 01				
00 SWANNANOA 02				
00 WEAVERVILLE				
00 WEST BUNCOMBE				
00 WOODFIN				
00 WOODLAND HILLS				
58 ABSENTEE VOTERS	104	133	47	142
59 ELECT. DAY TRANSFERS	5	5	12	5
TOT [redacted]	4,897	6,516	4,484	7,109

ENR[redacted] ABSTRACT: 01 BUNCOMBE COUNTY [redacted] DATE: 11/09/95 TIME: 09:39 P[redacted]3

OFFICE NUMBER: 101 OFFICE: ASHEVILLE CITY COUNCIL

	PRECINCT	EDWARD HAY	GENE JOHNSON	LISA MARTIN	ROCK MCCLURE
01	ASHEVILLE 01	134	96	106	139
02	ASHEVILLE 02	319	180	173	231
03	ASHEVILLE 03	254	133	141	175
04	ASHEVILLE 04	727	189	230	330
05	ASHEVILLE 05	759	232	253	346
06	ASHEVILLE 06	450	366	397	403
07	ASHEVILLE 07	347	138	180	188
08	ASHEVILLE 08	260	203	263	294
09	ASHEVILLE 09	177	174	221	228
10	ASHEVILLE 10	182	147	107	196
11	ASHEVELLE 11	84	66	68	96
12	ASHEVILLE 12	111	94	103	110
13	ASHEVILLE 13	129	105	104	116
14	ASHEVILLE 14	153	123	129	156
15	ASHEVILLE 15	340	294	272	323
16	ASHEVILLE 16	238	251	260	313
17	ASHEVILLE 17	457	125	145	178
18	ASHEVILLE 18	316	140	171	182
19	ASHEVILLE 19	346	147	182	215
20	ASHEVILLE 20	102	55	58	69
21	ASHEVILLE 21	271	207	223	211
22	ASHEVILLE 22	491	156	214	263
23	ASHEVILLE 23	94	83	91	88
24	ASHEVILLE 24	136	179	192	196
00	AVERYS CREEK				
00	BILTMORE				
00	BLACK MTN 01				
00	BLACK MTN. 02				
00	BLACK MTN. 03				
00	BLACK MTN. 04				
00	BROAD RIVER				
00	FAIRVIEW				
00	FLAT CREEK				
00	FRENCH BROAD				
00	HAZEL 01				
00	HAZEL 02				
00	LOWER HOMINY 01				
00	LOWER HOMINY 02				
00	LOWER HOMINY 03				
00	UPPER HOMINY 01				
00	UPPER HOMINY 02				
00	IVY 01				
00	IVY 02				
00	LEICESTER				
00	LIMESTONE 01				
00	LIMESTONE 02				
00	NORTH BUNCOMBE				
00	REEMS CREEK				
00	REYNOLDS				
00	RICEVILLE				
00	SANDY MUSH				
00	SWANNANOA 01				
00	SWANNANOA 02				
00	WEAVERVILLE				
00	WEST BUNCOMBE				
00	WOODFIN				
00	WOODLAND HILLS				
58	ABSENTEE VOTERS	134	30	43	57
59	ELECT. DAY TRANSFERS	8	7	10	0
	TOTAL	7,019	3,925	4,336	5,111

141

OFFICE NUMBER: 101 OFFICE: ASHEVILLE CITY COUNCIL

PRECINCT		TOMMY G. SELLERS	JIM SKALSKI	HERBERT (WATT DADDY) WATTS	CHARLES R. WORLEY
01	ASHEVILLE 01	96	114	185	117
02	ASHEVILLE 02	167	369	331	205
03	ASHEVILLE 03	163	245	253	213
04	ASHEVILLE 04	503	640	319	661
05	ASHEVILLE 05	561	550	340	758
06	ASHEVILLE 06	522	500	456	496
07	ASHEVILLE 07	243	491	247	332
08	ASHEVILLE 08	170	290	406	204
09	ASHEVILLE 09	213	202	246	195
10	ASHEVILLE 10	66	170	266	65
11	ASHEVELLE 11	44	70	150	57
12	ASHEVILLE 12	173	117	122	140
13	ASHEVILLE 13	236	147	142	160
14	ASHEVILLE 14	229	146	215	140
15	ASHEVILLE 15	598	415	338	418
16	ASHEVILLE 16	452	243	297	319
17	ASHEVILLE 17	349	413	174	442
18	ASHEVILLE 18	302	265	191	300
19	ASHEVILLE 19	287	303	214	321
20	ASHEVILLE 20	79	111	83	105
21	ASHEVILLE 21	287	300	233	252
22	ASHEVILLE 22	391	380	252	483
23	ASHEVILLE 23	111	102	84	100
24	ASHEVILLE 24	233	115	177	168
00	AVERYS CREEK				
00	BILTMORE				
00	BLACK MTN. 01				
00	BLACK MTN. 02				
00	BLACK MTN. 03				
00	BLACK MTN. 04				
00	BROAD RIVER				
00	FAIRVIEW				
00	FLAT CREEK				
00	FRENCH BROAD				
00	HAZEL 01				
00	HAZEL 02				
00	LOWER HOMINY 01				
00	LOWER HOMINY 02				
00	LOWER HOMINY 03				
00	UPPER HOMINY 01				
00	UPPER HOMINY 02				
00	IVY 01				
00	IVY 02				
00	LEICESTER				
00	LIMESTONE 01				
00	LIMESTONE 02				
00	NORTH BUNCOMBE				
00	REEMS CREEK				
00	REYNOLDS				
00	RICEVILLE				
00	SANDY MUSH				
00	SWANNANOA 01				
00	SWANNANOA 02				
00	WEAVERVILLE				
00	WEST BUNCOMBE				
00	WOODFIN				
00	WOODLAND HILLS				
58	ABSENTEE VOTERS	109	96	56	132
59	ELECT. DAY TRANSFERS	9	6	8	9
TO		6,593	6,800	5,785	6,792

Tuesday - November 21, 1995 - 2:00 p.m.

WORKSESSION

Present: Vice-Mayor Chris J. Peterson; Councilwoman Barbara Field, Councilman Gary McClure; Councilwoman Leni Sitnick and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Mayor Russell M. Martin; Councilman Joseph Carr Swicegood

Also Present: Councilmen-Elect Edward C. Hay Jr., Tommy G. Sellers and Charles R. Worley

CLOSED SESSION

At 2:03 p.m., Councilman Watts moved to go into closed session to instruct the City staff concerning the position to be taken by the City in negotiating the price and other material terms of (a) a proposed long-term lease of property at the Skyland Fire Department and (b) purchase of property on Coxe Avenue as authorized by G.S. 143-318.11 (a) (5); and to consult with the City Attorney in order to preserve the attorney-client privilege as authorized by G.S. 143-318.11 (a) (3), including the matter of the lawsuit involving Hobson Construction Company, Inc., and APAC-Carolina Inc. This motion was seconded by Councilwoman Field and carried unanimously.

At 2:45 p.m., Councilwoman Sitnick moved to come out of closed session. This motion was seconded by Councilman McClure and carried unanimously.

CERTIFICATE OF APPRECIATION TO J. DONALD WILLIAMS

Councilman McClure read a Certificate of Appreciation to J. Donald Williams who has retired after 27 years of dedicated service to the Board of Directors of Thoms Rehabilitation Hospital. He presented the Certificate to Mr. Williams.

CONSIDERATION OF CANCELLATION OF NOVEMBER 28, 1995, REGULAR CITY COUNCIL MEETING DUE TO LACK OF QUORUM

City Manager Westbrook said that in discussing the meetings of November 21 and November 28 with the Mayor and Council, it appears that there will not be a quorum present for the November 28 formal meeting. On November 14, it was discussed that there would be problems with the public hearings that have been advertised for the November 28 meeting. In addition to public hearings, there are a number of other issues that are time sensitive and require Council action prior to December 5 or December 12.

With the above information as background, the November 21 worksession has taken on some aspects of a formal meeting in which Council will be asked to take action on issues. Staff believes by taking care of some items, we can successfully bridge the gap left by not having a meeting on November 28, with most other items carried forward to the December 12 meeting.

City Attorney Slawter said that the Asheville City Council may take formal binding votes on matters before the Council today if Council cancels the regular City Council meeting scheduled for Tuesday, November 28, 1995. This information was also advertised in the Friday, November 17, 1995, Citizen-Times.

When Vice-Mayor Peterson asked for a motion to cancel the November 28 meeting, Councilwoman Sitnick said that she would not make that motion because she wanted Council's last meeting to be in the Council Chamber.

Councilman Watts moved to cancel the regular meeting of the City Council on November 28, 1995, due to lack of quorum. The motion was seconded by Councilwoman Field and carried on a 4-1 vote, with Councilwoman Sitnick voting "no".

RESOLUTION NO. 95-175 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS CONVEYING CITY-OWNED PROPERTY TO NC DOT FOR THE MCDOWELL STREET VIADUCT

Mr. Mark Combs, Public Works Director, said that the N.C. Department of Transportation ("NC DOT") is in the process of making necessary preparations for substantial improvements to the McDowell Street bridge. Currently NC DOT is in the process of acquiring the necessary rights-of-way for the successful commencement and completion of the project. The City owns a very steep parcel of property adjacent to the McDowell Street bridge improvements. NC DOT is in need of a portion of this property for the successful completion of the project. In obtaining a portion of the property for right-of-way purposes, the remaining portion will result in an uneconomic remnant. Consistent with NC DOT's policy, they have offered to purchase the entire parcel from the City in the amount of $7,925.

When Councilwoman Sitnick asked if there would be a buffer, Planning Director Julia Cogburn said that the City does not have any buffer requirements that would apply to this property. Councilwoman Sitnick then suggested keeping the portion of the property that NC DOT did not need so as to utilize as a buffer. Mr. Combs suggested the City work with NC DOT on this issue.

Vice-Mayor Peterson said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilman Watts moved for the adoption of Resolution No. 95-175. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 30

RESOLUTION NO. 95-176 - RESOLUTION AUTHORIZING THE EXECUTION OF A REGIONAL WATER SUPPLY AND WATER SERVICE AGREEMENT

Mr. Mike Holcombe, Water Resources Director, said a preliminary regional water agreement between the Asheville-Buncombe Water Authority, the City of Asheville, Buncombe County, and Henderson County was entered into in June 1994. The final details have been negotiated and approved by the Water Authority, Henderson County Commissioners and the Buncombe County Commissioners. Under the terms of this agreement, Henderson County will allow the Water Authority to build a water treatment plant in Henderson County at the confluence of the Mills River and the French Broad River. This Regional Water Agreement will meet the future water needs of the entire region.

Mr. Holcombe used slides to illustrate the benefits of the agreement: (1) establishes "ultimate" future water resource for entire region; (2) new water source permits economic development; declassification of Bent Creek site encourages development of South

Buncombe and North Henderson; (3) protects region from future water droughts; (4) promotes regional wastewater infrastructure development; (5) encourages regional approach to water issues; (6) encourages rapid growth in new customer base through expansion of service area; and (7) accomplishes the No. 1 goal of City Council. He presented a draft timetable for the Mills River Water Plant with September 1998 being the completion of the Mills River 5 MGD Water Treatment Plant.

Councilwoman Sitnick said that "while I agree that the regional approach is the way to go with water and perhaps other infrastructure needs in the future, I would just like to put my two cents in to say that we don't have the money to maintain and repair existing infrastructure and I hope the Authority in looking towards any future joiners to this regional approach are brought in with the proper financial considerations - money for maintenance needs to be there. I'd also like to say that while this encourages development and quick growth I hope it's not the old cancer mentality of growth for growth sake, but rather sensible and sensitive growth, that sort of thing. As Airports go and as water and sewer taps go, that's what regulates how big we get. And I hope we can maintain the essence of Asheville while we're growing. I'm happy to know that conservation is going to maintain it's lofty position in all of your work and I hope that the other counties and entities joining the Asheville-Buncombe Water Authority consider conservation as clearly and importantly as we have. Regarding the classifications, I'll be at that public hearing but when we start reclassifying and declassifying, more red flags go up in my head about pollution and less attention to environmental details. So I would hope that when that all comes to be, we're very clear that this is not just to allow wanton growth and that's how I feel about it, and we still have to maintain the integrity of our resources."

Vice-Mayor Peterson commended the staff and the Water Authority for completing the City Council's number one goal.

Councilman Watts also commended those involved in this great accomplishment.

Upon inquiry of Mr. H. K. Edgerton, Mr. Holcombe explained that the Water Authority will have no role on people building in the floodplain. He said that will be the responsibility of the Planning Department.

Vice-Mayor Peterson said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilwoman Field moved for the adoption of Resolution No. 95-176. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 31

RESOLUTION NO. 95-177 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE WITH THE SKYLAND VOLUNTEER FIRE DEPARTMENT

City Attorney Slawter said that the City has had on-going discussions with the Skyland Volunteer Fire Department regarding the terms and conditions of a long-term ground lease. The lease provides for the lease to the City of property owned by Skyland for the purpose of constructing a new fire station. The lease term is 99 years. The

rental to be paid to Skyland is in the form of a conveyance of a jointly owned fire truck as well as the location at the Skyland station of a surplus ladder truck owned by the City which will be used by Skyland.

This resolution will authorize the Mayor to execute a lease agreement with the Skyland Volunteer Fire Department so as to enable the City to construct a new fire station in the Skyland area.

Vice-Mayor Peterson and Councilman McClure were pleased that after eight months of negotiations, a ground lease has finally been agreed upon.

Vice-Mayor Peterson said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman McClure moved for the adoption of Resolution No. 95-177. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 33

RESOLUTION NO. 95-178 - RESOLUTION TO AWARD AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

Purchasing Director Norwood Dunn said that sealed bids were received to furnish 14 full size and 6 mid-size police/patrol vehicles, one all wheel drive cargo mini van, three mid-size and one full size sedan for the Police Department; 1-1/2 ton pickup truck for the Public Works Department, Sanitation Division; two all wheel drive utility type passenger vehicles for the Fire Department; three mid-size pickup trucks for Building Safety Department; one mid-size pickup truck for the Engineering Department; and one cargo van for the Finance Department, Purchasing Division. Four bids were received. In addition to the normal considerations given in the evaluation of bids such as specification compliance, price, etc., bids were evaluated considering the energy efficient cost based on EPA gasoline mileage. Except for bid item no. 6, all bid items are recommended to be awarded to the low bidder of each item and are not affected by the energy efficient cost. Bid item no. 6 is recommended to be awarded on the basis of being the lowest energy efficient cost, thus saving the City $330. Funds for the purchase of these vehicles are to be from the requisitioning departments capital equipment appropriations for Fiscal Year 95/96. All vehicles are budgeted as replacement vehicles. A copy of the complete bid summary is attached hereto and made a part hereof as "Exhibit A". The following is recommended for Council's approval:

Award to Matthews Ford, Asheville, NC, the following:

Bid Item	Qty	Description	Unit Price	Amount
1	14 ea	1996 Ford Crown Victoria	$18,325	$256,550
5	1 ea	1996 Ford Crown Victoria	18,602	18,602
7	2 ea	1996 Ford Explorer	22,505	45,010
8	3 ea	1996 Ford Ranger	12,734	38,202
9	1 ea	1996 Ford Ranger	12,244	12,244
10	1 ea	1996 Ford E150	14,993	14,993
		TOTAL AWARD - MATTHEWS FORD		$385,601

Award to Parkway Chevrolet, Asheville, NC, the following:

Bid Item	Qty	Description	Unit Price	Amount
2	*5 ea	1996 Chevrolet Lumina	$18,726	$ 93,630
3	1 ea	1996 Chevrolet Astro	18,249	18,249
4	3 ea	1996 Chevrolet Lumina	14,824	44,472
6	1 ea	1996 Chevrolet 1/2 Ton CC10703	14,106	14,106
		TOTAL AWARD - PARKWAY CHEVROLET		$170,457

*NOTE: Bid item no 2 - Bid issued and received for quantity of six. Award quantity reduced to five to stay within budgeted funds.

Upon inquiry of Councilwoman Sitnick about what the cost difference is in writing the letters "police" on the cars versus filling in the letter with local scenes, Police Chief Annarino said that there is a minimum savings of $300 per car by filling in the letters with local scenes because they are just decals.

Vice-Mayor Peterson said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Watts moved for the adoption of Resolution No. 95-178. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 34

RESOLUTION NO. 95-179 - RESOLUTION OF INTENT TO CLOSE A PORTION OF FEDERAL ALLEY RUNNING SOUTH FROM ASTON STREET TO HILLIARD AVENUE BETWEEN ASHELAND AVENUE AND COXE AVENUE AND CALLING FOR AN ADDITIONAL PUBLIC HEARING ON DECEMBER 19, 1995

Councilwoman Sitnick moved to adopt Resolution No. 95-179. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 39

RESOLUTION NO. 95-180 - RESOLUTION OF INTENT TO CLOSE PARKWOOD ROAD BETWEEN HAYWOOD ROAD AND PATTON AVENUE AND CALLING FOR A NEW DATE FOR THE PUBLIC HEARING ON DECEMBER 19, 1995

Councilwoman Field moved to adopt Resolution No. 95-180. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 40

RESOLUTION NO. 95-181- RESOLUTION OF INTENT TO CLOSE A PORTION OF AN ALLEY NAMED BISHOP PLACE, BETWEEN ELIZABETH PLACE AND WOODLAWN AVENUE, RUNNING PARALLEL TO STARNES AVENUE AND CALLING FOR A NEW DATE FOR THE PUBLIC HEARING ON DECEMBER 19, 1995

Councilman Watts moved to adopt Resolution No. 95-181. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 41

RESOLUTION OF INTENT TO ANNEX THAT PORTION OF CITY-OWNED PROPERTY KNOWN AS THE RICHMOND HILL PROPERTY AND SETTING A NEW DATE FOR THE PUBLIC HEARING ON DECEMBER 19, 1995

Because staff is not satisfied with the boundary description for the Richmond Hill property, Upon staff's request, Councilman Watts moved to cancel the public hearing originally set for November 28, 1995. This motion was seconded by Councilwoman Field and carried unanimously.

City Manager Westbrook asked for Council's authorization to proceed with the survey of this property with the amount for the survey to be taken out of the proceeds of the sale.

Councilwoman Sitnick said that she hoped "that this is not being done with the intention of sale. This is a major piece of property that the City can utilize for a number of things, for parks, some kind of exciting centerpiece on the river, like Chattanooga's done, for some affordable housing as Barbara has suggested. I would like to be very, very cautious and would hope that the new City Council would be very, very cautious in selling 180 aces of property when the City could get real long term benefits from rather than just an up front amount of money through a sale. There are other things to consider, especially when we talked about the fact that we have so little developable land left, so little park area left. I would be just very cautious about how we deal with this piece of property after those boundary surveys are done."

City Manager Westbrook said that staff is proceeding with Council's instructions which were originally to sell the property, along with some other property, and then later on there was discussion about the possibility of putting recreational facilities on it.

When Councilwoman Sitnick asked how much the survey would be and if it could be done in-house, City Manager Westbrook said that the survey would be approximately $5,000 and the survey could be done in-house but we have other priorities that need to be taken care of first.

Mr. Samuel Camp said that the people in the Richmond Hill area do not want anymore development in that area.

Vice-Mayor Peterson said that he personally preferred to have ballfields constructed on the Richmond Hill property.

Councilwoman Sitnick added that the Richmond Hill property also offers one of the best views of the City of the river.

MOTION TO RESCHEDULE THE PUBLIC HEARING TO REZONE TWO LOTS AT 401 OLD COUNTY HOME ROAD FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CS COMMERCIAL SERVICE DISTRICT FROM NOVEMBER 28, 1995, UNTIL DECEMBER 19, 1995

MOTION TO RESCHEDULE THE PUBLIC HEARING TO AMEND THE SUBDIVISION REGULATIONS TO PERMIT THE CREATION OF NON-RESIDENTIAL LOTS WHICH DO NOT ABUT A PUBLIC STREET FROM NOVEMBER 28, 1995, UNTIL DECEMBER 19, 1995

Councilman McClure moved to reschedule the public hearing to rezone two lots at 401 Old County Home Road from R-3 Medium Density Residential to CS Commercial Service District from November 28, 1995, until December 19, 1995, and to reschedule the public hearing to amend the subdivision regulations to permit the creation of non-residential lots which do not abut a public street from November 28, 1995, until December 19, 1995. This motion was seconded by Councilwoman Sitnick and carried unanimously.

BELE CHERE FINANCIAL REPORT

Mr. Irby Brinson, Director of Parks & Recreation, said that this report is provided as a review of the 1995 Bele Chere Festival and to offer methods to improve future festivals.

The following information has been broken down into four areas. These include the 1995 Bele Chere Financial Report, New Procedures and Guidelines, Procedures for Handling Cash, and Alcohol Risk Assessment Report.

Bele Chere Financial Report: Larry Fisher, Finance Director, presented the 1995 financial report and answered questions from Council as they related to revenues and expenditures; the loss of $31,750; the reasoning behind some expenditures under entertainment; and the lack of sponsorships.

New Procedures and Guidelines: Mr. Brinson said that Bele Chere has been very successful in the past due largely to the efforts of over 500 volunteers who serve to make the festival function. This year the festival brought in $12 Million in economic impact. However; due to turnover in volunteers from year to year as well as staff changes, their is a need for written policies and procedures for the operations of Bele Chere. As was mentioned above, an alcohol policy and emergency plan has been recommended. In addition, written guidelines need to be developed to explain the role of each group (Bele Chere Board, Festival Coordinator, Bele Chere Commission) and job descriptions for committee chairs. Furthermore written procedures for accounting and approving expenditures by all committees needs to be formalized. Over the next three months City staff, along with the Bele Chere Board will be developing a Festival's Procedures Manual that will be inclusive of pertinent procedures to be followed by volunteers and staff. Having written procedures will help reduce the liability and will allow for continuity when staff and volunteers change.

Vice-Mayor Peterson was pleased with this report.

Upon inquiry of Councilwoman Sitnick if the City can ban concealed weapons during street festivals, City Attorney Slawter said that he didn't think the City can ban the carrying of concealed weapons during street festivals, however, he would investigate it further.

Procedures for Handling Cash: Cindy Batson, Internal Auditor, discussed changes in regard to handling of cash during future festival. It was the consensus of Council to endorse the changes she outlined.

Upon inquiry of Mr. H.K. Edgerton about the theft of $8,119, City Manager Westbrook said that a criminal investigation is still underway.

Councilman Watts answered Mr. Edgerton's question on why we don't utilize more local talent during the Bele Chere Festival. It was also noted that in general, 2/3 of the entertainers are local or regional artists.

Councilwoman Sitnick a dunking booth for staff, department heads and Council at the next festival.

When Councilman Watts inquired about the financial report for the Goombay! Festival, Mr. Brinson said that the City has asked for that report and they are required to provide us with a financial statement.

Mr. Edgerton hoped that the Eagle/Market Street area is opened up during the next Bele Chere Festival. He also asked that the Goombay! Festival be allotted more resources.

Alcohol Risk Assessment Report: The Bele Chere Board approved hiring an independent service to perform an Alcohol Assessment during the 1995 festival. This assessment occurred on Saturday of the festival and was performed by HOME TEAM through Public Health Foundation Enterprises, Inc. The results of this report indicate that Bele Chere staff and volunteers are committed to responsible alcohol management during the festival. Several concerns were made that included not having written alcohol policies and procedures and local businesses within the perimeter of the festival selling cans and bottles of beer out of their windows. In addition the assessment recommends improving lighting in certain areas and developing an emergency action plan for the festival.

Mr. Ray Bailey, 1996 Festival Chair, concurred with the report being presented. He thanked the current Council for their support and solicited the new Council's support for Bele Chere 1996.

Councilwoman Sitnick "thought this was the sweetest Bele Chere - it was really lovely. I felt the art work was the best ever. Congratulations to Dana Irwin. The volunteers were incredible and the staff, all of you, I don't know how you do it. It must start out as, something that gives you nightmares. But I also have to go on record to say that I oppose the City making money through the sale of alcohol. I wish, and maybe some of you wish, there was another way for us to generate those kinds of revenues. There were little spots during the festival that were rather unpleasant because of alcohol to me personally and to others in the crowd. And I don't only mean the spot you stepped on, but behavior spots as well. And I was happy that this alcohol assessment was done. I was one of the people who spoke up for it initially. And, I would encourage the new council members to look at the recommendations from the Home Team and be very stringent and clear about the philosophy this City wants to send out as a message regarding alcohol beverages being sold. I can also tell you that there's a large group of citizens in this City that wish, at least a portion of Bele Chere could be reserved for the family type attendance where maybe, Saturday, up until a certain point, alcohol is not sold - or something like that. And again, I realize revenues are the bottom line, but to me there are other bottom lines, for others are there other bottom lines. And rather than try to generate it all through Bele Chere, maybe with Parks & Rec, having taken this over, with Trina's expertise and Ben's expertise, we could create additional street festivals during the year that would not compete, say with the Harvest Festival in West Asheville, but would be in addition to it. Maybe some kind of ... art street festival, like the Coconut Grove Art Festival in Miami - those kinds of things to generate additional festival revenues. But I think alcohol is a real problem. The hocking of it at street corners is totally objectionable. And anything that can be done to ..., whether it's a written policy or the presence of police officers at every one of those stations, I would highly recommend and support."

Councilman Watts suggested a festival during Labor Day weekend, perhaps called the "Watt Daddy Festival."

Councilman McClure said that we have a perfect opportunity to bring in economic development into the City and that is with the development of the Lake Craig property into soccer fields.

Councilwoman Field opposed making it illegal for a retail outlet to sell alcohol within fifteen feet of the sidewalk.

This report has been presented for information only concerning the 1995 Bele Chere Festival and future plans for improvement.

REPORT ON APPRAISALS OF CITY-OWNED PROPERTY

Ms. Patty Joyce, Senior Planner, said that several months ago the City Council requested that appraisals be conducted on three City-owned properties, specifically (1) the Richmond Hill tract - 181.21 acres of land - $1,903,000; (2) the Asheland Avenue parcel - 1.32 acres of land - $282,000; and (3) 29 Haywood Street - office and walkway is $200,000 and office area only, excluding the walkway is $172,000. She reviewed each appraisal which was prepared by Benjamin T. Beasley & Associates.

The cost of the appraisals (plus one other requested by Council) is $5,500. A prepaid expense account has been established by Audit/Budget to net this and other disposition costs against revenue from any sales.

Councilman McClure asked how much the City had invested in the 29 Haywood Street property. City Manager Westbrook said that it was approximately $600,000, including the purchase price. The annual cost of operation is approximately $12,000.

City Manager Westbrook said that staff will be providing Council with some proposed future uses for the building to better utilize the space.

Councilman McClure said that from an economic standpoint, the highest and best use might be the sale and then the development of that property, but he felt that the best use for the City of Asheville would be for a park or put a priority on it to develop a park. Also, the Asheland Avenue property seems the most viable pieces of property that the City can liquidate from a cost basis. He suggested the money not go into the general fund because then it has the tendency to be absorbed in other things. He felt we should utilize this money for specific projects - one in particular, the purchase of the Lake Craig property. If the Asheland Avenue property was sold, the $282,000 could be designated for the purchase of the Lake Craig property.

City Manager Westbrook said that the Council previously has indicated that the funds derived from the sale of property would be used for economic development. However, if the Council wanted to specify what the funds should be used for from the sale of property, that can be done.

When Councilwoman Sitnick asked if the Asheland Avenue site was big enough for a bus terminal, Ms. Joyce responded that it was not.

Mr. Samuel Camp said that the Recreation Board is in the process of prioritizing parks for City Council's review.

Councilwoman Field said that there is strong support for recreation and recreation facilities both in terms of ballfields and upgrading our existing recreation centers, for instance Stephens-Lee.

Councilwoman Sitnick noted that ballfields are not the only recreation needed. She suggested skateboard parks as an example.

City Manager Westbrook said that Council will be considering setting priorities for parks and recreation at their upcoming retreat.

Councilwoman Sitnick said that maybe the new Council will consider a City-wide parks bond.

CONSENT AGENDA:

Sale of Scrap Metals

Summary: The Water Resources Department has requested the Purchasing Division to sell approximately 20 tons of assorted scrap metals that are currently stored at their facility on South Charlotte Street.

Advertise Offer of Purchase of Disposal Parcel 118 on Ridge Street

Summary: Disposal Parcel 188 is a residential lot on Ridge Street comprising of 5,500 square feet. The bid from Zaneta and Mary Redfern for Disposal Parcel 118 includes the proposal to build a home containing 1,296 square feet, four bedrooms and two baths for their personal residence at an anticipated cost of $50,300. The Redferns have applied for the Incentive Housing Program ($1 lot) subsidy.

The bid of Zaneta and Mary Redfern in the amount of $2,500 for the purchase of Disposal Parcel 118 in the East End/Valley Street Community Improvement Area is not less than the established minimum price of $2,500.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

OTHER BUSINESS

Comments by Councilwoman Sitnick

Councilwoman Sitnick said that she "thinks it's important for the new Council to consider the requests for Minority Business Commission, those that are on record and perhaps they can avail themselves with those specifics so that they can be acted on post haste. I think we need a garbage pail on Central Street, I know that sounds like minutia, but the City Manager will confirm that I've had some pretty aggressive mail about it, that we were concerned about. Public Works has taken care of it, but this is not the first time. We were promised that, the public was promised that we would vote on the resolution regarding transporting high level nuclear waste through Asheville within 30 days. I don't know when that date comes up. Obviously this Council is not going to have the privilege of voting on that and so I will be lobbying the new Council and making them aware of what that involves, including bringing high level nuclear fuel up the Saluda grade, the steepest rail grade in the country, and right through Asheville on their way to the bottom. And all it is is a resolution of how we feel about it. It's not going to do a darn thing but it will send a message to Congress. I think that regarding the fact that we had authorized the expenditure of $75,000 on a study on renewing our cable franchise agreement that the new Council needs to be made aware of the history and the current issues involved in that on-going negotiation and there ought to be certain requirements and requests made to the cable company, especially now that their selling, that will benefit the City. The City has, perhaps, lost large amounts of money in the past and I think it's important for us to address the cable negotiations with clarity. I think that the new

Council needs to consider how they're going to address issues brought forth about the schools, by parents, teachers and students, and meet with the School Board and not let that drop. I think the new Council needs to consider how this City wants to go on impact fees. Whether we are going to continue being the only City in the state that has no impact fees or whether we're going to join the other growing cities where impact fees have not impeded growth, and whether or not we're going to consider having impact fees. I think we need to have a real stringent policy regarding weeds on our curbs and sidewalks - the City is getting overgrown and it looks terrible. I would hope that the new Council is enthusiastic about continuing the incredible efforts of the Planning Department staff and the PACE Committee in its evaluation of inventory of every mentioned sidewalk and pedestrian and bike path access in the City. Ben Wax and I and Marshall Logan and Parks and Rec have been working with the schools on a youth project. It is something that the Mayor's Committee, which I chaired - we are trying to find out through a listening project, different from the Schools Foundation Listening Project, what the young people want to do in their leisure time, other than recreation, so that we can help the community in the private sector in committing ourselves to making sure young people are not bored, obviously government cannot do that alone. I think we need to put some real teeth into our tree ordinance and maybe consider the Treasure Tree Program as being part of that ordinance. I think that we need to look real hard at the numbers as to what this City can do for Stephens-Lee Community Center. It's a historic gem and very important to a large group of our citizens and I think we ought to be serious about what we can do to help Stephens-Lee get on the path to recovery, if you will. I think we need to look at the way our Board of Adjustment operates and the number of variances are being requested and granted. Whether or not they are all being granted according to the State statutes on what regulates Board of Adjustments. I think that we need to continue the efforts brought forth repeatedly by Vice-Mayor Peterson regarding recycling in this City. We have missed the boat on recycling and we don't have to reinvent any wheels here, we just have to apply it to Asheville and get going on it. I think that the new City Council ought to look at maybe putting a little more money into CityWorks so that we can inform the public how their representatives are representing them, how the people want to be represented, what's on the agenda, what board and commissions appointments are coming up, etc. And I think part of the cable negotiations ought to be letting the public access channel have a crawl so that people know what the agenda is and whether or not they want to come to a meeting. I think we need to be absolutely compassionate and caring about how we deal with the Housing and Community Development Committee and affordable housing. We have an incredible non-profit sector dealing with that. A number of groups that are very successful and they should be continued to be brought to the table as the Chairman of that Committee, Vice-Mayor Peterson, saw to it, from the beginning so that they were part of the solutions working with us. I think that we have to give absolute attention to the five major areas of economic development in our community that are already on the table, because the way you have thriving economy, is number you, you make sure it's the most beautiful, wonderful place to live. You can have a hole in the wall restaurant and they serve great food. People will crawl through a stormwater pipe to get there. So, what we ought to be doing is making the best place and the most beautiful place to live. And we ought to be stroking those businesses that are already here. Those businesses that are part of the tax base that provide jobs that contribute to charities and to the community. We ought to be making it wonderful to do business here for those already located here. That word will get out. And the five areas of economic development already on the table that need your attention - the riverfront development, the West Asheville business corridor, the Grove Arcade, Hand·Made in America and

South Pack Square. I think we need to do something about ARNIE, poor ARNIE, I don't know how much the City has spent with ARNIE, but we've got this great system, this technical system where people can call and get answers to almost anything and nobody knows about it. Maybe we need to change the name to the CityWorks and that be the number you actually call, or have a jingle contest - something. I think the UDO, you know, will have to be handled. And I think we need to make sure that the Fire Department and the Boy Scouts continue to make sure that houses and businesses have numbers on them, for delivery people, for emergency people, for fire people, for all of those folks. It's going to be up to this Council to create citizenship and to have meetings when people can attend. So I encourage you to do that."

Councilwoman Sitnick said that "the last thing I'd like to bring up, is I'd like to make a motion that the new Council revisit and reconsider the payroll deduction draft done by Bill Farris, Bob Warren, Pam McGrayne, Bill Slawter, Martha McGlohon, and bring everybody involved to the table. I think it's fine that United Way is on board for payroll deduction. I think that's a worthy cause. I've been a supporter of United Way for 25 years, but we dropped everybody else, we dropped everybody, we brought them on board and never gave anybody else an opportunity. If an organization is willing to pay the administrative costs and it doesn't cost the City any money, I don't see why other organizations shouldn't have that opportunity and I would like to request that the new Council, that they revisit it and make that as a motion." This motion was seconded by Councilwoman Field and carried on a 4-1 vote with Councilman McClure voting "no."

Councilwoman Sitnick said that her "last thing is, my husband and I attended a wonderful three day conference in Atlanta two weeks ago, on conscious aging, on how to be an elder in the community. And, I would hope that the new Council, although you're all very, very young, you'll be elders in the community. One of the keynote speakers was Dr. Joycelyn Elders, who is the former Surgeon General of the United States and she said something very poignant that I pass along to the new Council. Some encouragement for the good times ahead, and that was, and it's become my new creed in life, my new motto. We need to, we must work like we don't need the money. Love like there's no tomorrow. And dance like there's no one watching. That's what you're going to have to do to maintain your equilibrium on Council. I wish you all God speed. It's been a pleasure and an honor to serve this City."

Comments by Council Members

Councilman Watts stated that he's learned more in two years while serving on Council than in the 25 years he was an officer in the Asheville Police Department. He stated serving on Council has been a rewarding experience and he wished the new Council the best.

Councilwoman Field said that she has respect for every single person on Council and feels that the Council has worked for the best of the whole City from their point of very. She looked forward to continuing to be able to serve the entire community.

Councilman McClure thanked everybody for the opportunity to serve the City for the past two years.

Vice-Mayor Peterson thanked City staff for their work and wished the new Council the best of luck.

Councilman Watts said that Councilman Swicegood was not able to be at this meeting due to a catering engagement. However, Councilman Swicegood asked him to pass along that he enjoyed being on Council the last four years.

Comments by H.K. Edgerton relative to the Minority Business Commission

Mr. H. K. Edgerton urged Council to have an outside agency investigate the allegations of wrongdoing as it relates to the Minority Business disparity study. He also asked that more media attention be given to matters that affect the African Americans and women.

Councilwoman Sitnick said that she was "willing to wait and see what this investigation brings up. I don't think that's the end of it. I think most people, I don't know that it's an in-house investigation as much as an in-house gathering of information. As I understand it, staff is still attempting to find all of the original documents. And I can assure you that if the report comes in with questions that still need to be answered, I will speak with every new City Council member and ask for an outside investigation. And I will add one more thing to that, to your comments about the media. Paul sits here meeting after meeting and I think it's great that the local newspaper has someone here for every meeting. I think that Paul submits much larger articles than get printed. He has editors that he has to answer to. I don't want to speak for you Paul. But you know I talk more than anybody on this Council, maybe I talk more than everybody put together, and if you go to the library and look up in the computer how many entries the Citizen-Times has for me, it's eight."

City Manager Westbrook said that there is no attempt to cover anything up. He said that he would come back to Council with what his investigation reveals. He said the results might include some disciplinary action that will might be addressed in closed session.

ADJOURNMENT:

Vice-Mayor Peterson adjourned the meeting at 4:55 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

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EXHIBIT "A"

BID REQUEST NO 449-96
BID SUMMARY

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: MONDAY, NOVEMBER 13, 1995

AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		MATTHEWS FORD ASHEVILLE, N. C.	WOODCOCK MOTORS BLACK MOUNTAIN, N. C.	PEACHTREE FORD MERCURY GAFFNEY, S. C.	PARKWAY CHEVROLET INC. ASHEVILLE, N. C
1. 14) Full Size Police Vehicles for Patrol Use	MAKE: MODEL: UNIT PRICE. AMOUNT DELIVERY: EPA MPG CITY: ENERGY EFF. COST *(EA):	1996 Ford Crown Victoria $18,325.00 $256,550.00 90 to 120 Days 17 $21,854.41	1996 Ford Crown Victoria $18,967.00 $265,538.00 120 Days 17 $22,496.41	1996 Ford Crown Victoria $19,535.00 $273,490.00 56 Days 17 $23,064.41	No Bid
2. 6) Mid Size Police Vehicles for Adm. Use with Police Package	MAKE: MODEL: UNIT PRICE. AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA):	No Bid	No Bid	No Bid	1996 Chevrolet 1WL69 Lumina $18,726 00 $112,356 00 90 to 120 Days 20 $21,726.00
3. 1) All Wheel Drive Cargo Mini Van for Poice Department	MAKE: MODEL: AMOUNT: DELIVERY: EPA MPG CITY ENERGY EFF. COST* (EA):	1996 Ford Aerostar $21,037.00 60 to 75 Days 16 $24,787.00	No Bid	No Bid	1996 Chevrolet CL11006 Astro $18,249.00 60 to 90 Days 15 $22,249 00
4. 3) Mid Size 4-Door Sedan for Police Department	MAKE: MODEL: UNIT PRICE: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA):	1996 Ford Taurus $16,093.00 $48,279.00 45 to 60 Days 20 $19,093.00	No Bid	No Bid	1996 Chevrolet 1WL69 Lumina $14,824.00 $44,472 00 90 Days 20 $17,824 00

BID SUMMARY
BID REQUEST NO. 449-96
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AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		MATTHEWS FORD ASHEVILLE, N. C.	WOODCOCK MOTORS . BLACK MOUNTAIN, N. C.	PEACHTREE FORD MERCURY GAFFNEY, S C.	PARKWAY CHEVROLET INC. ASHEVILLE, N. C.
5.	MAKE:	1996 Ford		1996 Ford	
1) Full Size	MODEL:	Crown Victoria		Crown Victoria	
4-Door Sedan	AMOUNT:	$18,602.00	No Bid	$19,730 00	No Bid
with Police	DELIVERY:	60 to 90 Days		56 Days	
Package for Police	EPA MPG CITY:	17		17	
Department	ENERGY EFF COST*(EA):	$22,131 41		$23,259 41	
6.	MAKE:	1996 Ford		1996 Ford	1996 Chevrolet
1) 1/2 Ton	MODEL:	F150		F-150	CC10703
Heavy Duty	AMOUNT.	$13,956 00	No Bid	$14,750 00	$14,106 00
Pickup Truck	DELIVERY:	45 to 60 Days		56 Days	60 to 90 Days
for Public Work Dept.	EPA MPG CITY:	15		14	17
Sanitation Div.	ENERGY EFF COST* (EA):	$17,956 00		$19,035.71	$17,635.41
7.	MAKE:	1996 Ford		1996 Ford	1996 Chevrolet
2) Four Wheel	MODEL:	Explorer		Explorer XL	CT10506
Drive, 4-Door	UNIT PRICE:	$22,505 00		$22,700 00	$23,061 00
Utility Type	AMOUNT:	$45,010 00	No Bid	$45,400 00	$46,122 00
Passenger Vehicle for	DELIVERY:	45 to 60 Days		56 Days	60 to 90 Days
Fire Department	EPA MPG CITY:	15		15	16
	ENERGY EFF. COST* (EA):	$26,505.00		$26,700.00	$26,811.00
8.	MAKE:	1996 Ford		1996 Ford	1996 Chevrolet
3) Mid Size	MODEL:	Ranger		Ranger XL	CS10603
Pickup Trucks	UNIT PRICE:	$12,734.00		$13,425 00	$13,166 00
for Building	AMOUNT:	$38,202 00	No Bid	$40,275 00	$39,498 00
Safety Department	DELIVERY:	45 to 60 Days		56 Days	60 to 90 Days
	EPA MPG CITY:	18		18	20
	ENERGY EFF. COST* (EA):	$16,067.33		$16,758.33	$16,166 00

BID SUMMARY
BID REQUEST NO. 449-96
PAGE -3-

AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		MATTHEWS FORD ASHEVILLE, N. C.	WOODCOCK MOTORS BLACK MOUNTAIN, N. C	PEACHTREE FORD MERCURY GAFFNEY, S. C	PARKWAY CHEVROLET ASHEVILLE, N. C.
9. 1) Mid Size Pickup Truck for Engineering Department	MAKE:	1996 Ford		1996 Ford	1996 Chevrolet
	MODEL:	Ranger		Ranger XL	CS10603
	AMOUNT:	$12,244.00	No Bid	$12,250.00	$12,836.00
	DELIVERY:	45 to 60 Days		56 Days	60 to 90 Days
	EPA MPG CITY:	18		III	20
	ENERGY EFF. COST* (EA):	$15,577.33		$15,583.33	$15,836.00
10. 1) Cargo Van for Purchasing Division	MAKE:	1996 Ford		1996 Ford	1996 Chevrolet
	MODEL:	E150		E-150	CG31305
	AMOUNT:	$14,993.00	No Bid	$17,050.00	$15,204.00
	DELIVERY:	45 to 60 Days		56 Days	90 to 120 Days
TERMS: 30		Net 30	Net 30	Net 30	Net 30
BID DEPOSIT:		5% Official Check	5% Bid Bond	5% Official Check	5% Bid Bond

Bids evaluated with consideration given to the energy efficient cost (EEC) based on the U. S. Environmental Protection Agency (EPA) fuel economy guide. The energy efficient cost is determined by adding fuel cost for 60,000 city miles to the purchase price of the vehicle.

*EEC: BID PRICE + $\frac{60,000}{\text{EPA MPG}}$ X $1.00 gal.

The following companies submitted a 'No Bid': Carolina Truck and Body, Asheville N. C.; Carolina Truck Centers, Hickory, N. C.; and Cavalier Equipment Corporation, Cloverdale, Virginia.

Tuesday - December 5, 1995 - 4:00 p.m.

ORGANIZATIONAL SESSION:

Mayor-elect Russell M. Martin welcomed everyone to the organizational session and introduced The Reverend William G. Edwards, Grace Episcopal Church, who gave the invocation.

The Honorable Dennis J. Winner, Senior Resident Superior Court Judge, administered the Oath of Office to the following:

Mayor Russell M. Martin
Councilman M. Charles Cloninger
Councilwoman Barbara Field
Councilman Edward C. Hay Jr.
Councilman Thomas G. Sellers
Councilman James J. Skalski
Councilman Charles R. Worley

RESOLUTION NO. 95-183 - RESOLUTION OF APPRECIATION FOR VICE-MAYOR CHRIS J. PETERSON

Mayor Martin read the resolution.

Upon motion of Councilwoman Field, seconded by Councilman Worley, Resolution No. 95-183 was unanimously adopted.

Mayor Martin said that Mr. Peterson's resolution, plaque, name plates and City pen would be delivered to him.

RESOLUTION BOOK NO. 23 - PAGE 43

RESOLUTION NO. 95-184 - RESOLUTION OF APPRECIATION FOR COUNCILMAN GARY S. "ROCK" McCLURE

Mayor Martin read the resolution.

Upon motion of Councilman Hay, seconded by Councilman Sellers, Resolution No. 95-184 was unanimously adopted.

Mayor Martin presented Mr. McClure with the resolution, a plaque, his name plate and a City pen.

RESOLUTION BOOK NO. 23 - PAGE 44

RESOLUTION NO. 95-185 - RESOLUTION OF APPRECIATION FOR COUNCILWOMAN LENI SITNICK

Mayor Martin read the resolution.

Upon motion of Councilman Worley, seconded by Councilwoman Field, Resolution No. 95-185 was unanimously adopted.

Mayor Martin presented Ms. Sitnick with the resolution, a plaque, her name plate and a City pen.

RESOLUTION BOOK NO. 23 - PAGE 45

RESOLUTION NO. 95-186 - RESOLUTION OF APPRECIATION FOR COUNCILMAN JOSEPH CARR SWICEGOOD JR.

Mayor Martin read the resolution.

Upon motion of Councilwoman Field, seconded by Councilman Worley, Resolution No. 95-186 was unanimously adopted.

Mayor Martin said that Mr. Swicegood's resolution, plaque, name plate and City pen would be delivered to him.

RESOLUTION BOOK NO. 23 - PAGE 46

RESOLUTION NO. 95-187 - RESOLUTION OF APPRECIATION FOR COUNCILMAN HERBERT J. WATTS

Mayor Martin read the resolution.

Upon motion of Councilwoman Field, seconded by Councilman Hay, Resolution No. 95-187 was unanimously adopted.

Mayor Martin presented Mr. Watts with the resolution, a plaque, his name plate and a City pen.

RESOLUTION BOOK NO. 23 - PAGE 47

ELECTION OF VICE-MAYOR

Councilman Worley nominated Councilwoman Field as Vice-Mayor of the City of Asheville. Councilman Skalski seconded that nomination.

On a vote of 7-0, Councilwoman Field was elected as Vice-Mayor.

Mayor Martin addressed the Council stating that together the goals and objectives necessary for our City to progress into the future can be fulfilled.

Mayor Martin announced that a recess would be held for approximately 20 minutes.

REGULAR MEETING:

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING DECEMBER 1995 AS "NATIONAL DRUNK AND DRUGGED DRIVING PREVENTION MONTH" AND DECEMBER 15, 1995, AS "NATIONAL LIGHTS ON FOR LIFE DAY"

Mayor Martin proclaimed the month of December 1995 as "National Drunk and Drugged Driving Prevention Month" and December 15, 1995, as "National Lights on for Life Day" in the City of Asheville. He presented the proclamation to Mr. John Ingersoll who briefed the Council on some activities that would be taking place during the week.

II. PUBLIC HEARINGS:

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 95-182 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF APPROXIMATELY 20 TONS OF SCRAP METALS BY SEALED BID

Mr. Norwood Dunn, Purchasing Director, said that the Water Resources Department has requested the Purchasing Division to sell approximately 20 tons of assorted scrap metals that are currently stored at their facility on South Charlotte Street. He said the sale would bring in approximately $1,000 in revenue.

Upon inquiry of Councilman Sellers, Mr. Dunn said that the proceeds from the sale will go back to the Water Department fund.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 95-182. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 42

B. RESOLUTION NO. 95-188 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 82 (FRAGMENT PARCEL AT THE CORNER OF HAZZARD STREET AND PINE STREET) OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

Mr. Ed Vess said that a bid has been received from Mr. and Mrs. Alfred Logan for the purchase of Disposal Parcel 82 in the East End/Valley Street Community Improvement Area at the established minimum price of $650.

Disposal Parcel 82 is a fragment parcel at the corner of Hazzard Street and Pine Street comprising 3,049 square feet. It does not meet the minimum standards for a buildable lot. Mr. and Mrs. Logan own a home adjacent to Disposal Parcel 82 and it is their intent to combine that parcel with their lot for additional yard space. Mr. and Mrs. Logan do not plan any construction on this parcel.

After proper advertisement in the paper, no upset bids were received.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 95-188. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 48

V. CONSENT:

At the request of Mr. Ralph Bishop, the approval of the minutes was deleted from the Consent Agenda to be discussed individually.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 24, 1995, THE AMENDED MINUTES OF THE WORKSESSION HELD ON NOVEMBER 8, 1995, THE REGULAR MEETING HELD ON NOVEMBER 14, 1995, AND THE WORKSESSION HELD ON NOVEMBER 21, 1995

This item was deleted from the Consent Agenda to be discussed individually.

B. RESOLUTION NO. 95-189 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL PARCEL 118 (LOT ON RIDGE STREET) OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

Summary: Disposal Parcel 118 is a residential lot on Ridge Street comprising of 5,500 square feet. The bid from Zaneta and Mary Redfern for Disposal Parcel 118 includes the proposal to build a home containing 1,296 square feet, four bedrooms and two baths for their personal residence at an anticipated cost of $50,300. The Redferns have applied for the Incentive Housing Program ($1 lot) subsidy.

The bid of Zaneta and Mary Redfern in the amount of $2,500 for the purchase of Disposal Parcel 118 in the East End/Valley Street Community Improvement Area is not less than the established minimum price of $2,500.

RESOLUTION BOOK NO. 23 - PAGE 49

C. MOTION SETTING A PUBLIC HEARING ON JANUARY 23, 1996, TO REZONE FIVE LOTS OFF DEAVERVIEW ROAD FROM R-3 MEDIUM RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

D. MOTION RESCHEDULING A PUBLIC HEARING TO REZONE TWO LOTS AT 401 OLD COUNTY HOME ROAD FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CS COMMERCIAL SERVICE DISTRICT FROM DECEMBER 19, 1995, UNTIL JANUARY 9, 1996

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions and they would not be read.

Vice-Mayor moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

ITEM PULLED FROM CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 24, 1995, THE AMENDED MINUTES OF THE WORKSESSION HELD ON NOVEMBER 8, 1995, THE REGULAR MEETING HELD ON NOVEMBER 14, 1995, AND THE WORKSESSION HELD ON NOVEMBER 21, 1995

Mr. Ralph Bishop was concerned that the City Manager and City Clerk were raping him of his rights for full and accurate City Council minutes.

Councilman Worley moved for the approval of the minutes of the City Council meetings held on October 24, 1995, November 8, 1995 (amended), November 14, 1995, and November 21, 1995. This motion was seconded by Councilman Cloninger and carried unanimously.

VI. OTHER BUSINESS:

A. COMMENTS BY H.K. EDGERTON RELATIVE TO THE MINORITY BUSINESS PLAN

Mr. H. K. Edgerton read a letter, which was awaiting the President of the NAACP's signature, requesting an independent outside investigation into the allegation that the City's 1993 minority business study was compromised. He stated that he has conducted a small investigation and "there are people who were directly involved in this

process, up to and including some of the people who are responsible for the final draft of this plan, who have reiterated the fact that there has been some serious wrong-doing in this plan." Mr. Edgerton said that "one of the statements that was made to me is that the City owed $114,000 so it utilized that as a little bit of leverage to pay the people who did it, especially when it came to the redress process."

Vice-Mayor Field once again stated that as far as she knew what came to the Minority Business Commission was not compromised and if indeed the consultants that the City hired did compromise the plan for any reason, then she felt we have some serious problems with the consultants.

Vice-Mayor Field asked Mr. Edgerton to submit in writing to the City Manager the alleged statistic changes which would have produced inaccurate percentages and any other substantial changes being alleged.

Mayor Martin stated that an internal investigation is being conducted into the allegations and if there is a need for an outside independent body to investigate further, Council will take action on the matter at that time.

When Councilman Hay asked what the status of the internal investigation was, City Manager Westbrook replied that the investigation is approximately 2/3's of the way through and they are discussing it with the City Attorney at this time.

B. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop commented that he has been unable to get full and accurate City Council minutes. He stated that he will continue to seek redress from the Council.

C. DEVELOPMENT ON THE NATURAL ENVIRONMENT

A marketing manager urged Council to please, with every decision made in the future, to consider the impact of development on our natural environment, especially trees.

D. COMMENTS BY MINNIE JONES

Ms. Minnie Jones welcomed the new Council members and since she is a member of the NAACP too, she offered her services to work with the City, Mr. Edgerton and the NAACP to solve any problems.

E. COMMENTS BY JEAN TROUTMAN

Ms. Jean Troutman asked Councilmembers what their understanding of their job is as a Councilmember. She hoped that this Council would not meet with bankers, lawyers, construction people, developers, commercial property owners and residential property owners and make decisions and then come to a formal meeting and tell the community what the Council is going to do. She did hope that this Council come to the formal meeting and listen to poor people, unemployed people, environmentalists, teachers, people that ride the bus and people that ride bicycles, investigate their facts and then make a decision.

Mayor Martin said that, on behalf of the Council, they listen to all input. Worksessions are held to gather information, listen to people from all walks of life, and communicate. Only after they listen to the people and investigate on their own, are decisions made in a formal meeting.

Councilman Hay felt comfortable in saying that this Council will not make decisions without first listening to all the information available. He invited Ms. Troutman to observe the Council in the future and if she sees that Council is making decisions without first listening to call their attention to it.

Councilman Skalski was glad that Ms. Troutman addressed the Council. In the discussions that he has had with many people while running for office, he felt it's people like Ms. Troutman that will make the City great.

F. CLAIMS

The following claim was received by the City of Asheville during the week of November 10-16, 1995: Larry Dillingham (Streets).

The following claims were received during the week of November 17-22, 1995: Jimmy Redmond (Water), Andrew Nickell (Water), Christy Adams (Water), Edna B. Ford (Sanitation) and Betty Bass (Water).

These claims have been referred to the Asheville Claims Corporation for investigation.

G. LAWSUIT

The City was served with a Civil Summons and Complaint on November 16, 1995, as follows: Alan O'Donnell v. City of Asheville and MSD (complaint for money owed).

This has been referred to the appropriate in-house counsel for action.

H. CLOSED SESSION

At 5:34 p.m., Vice-Mayor Field moved to go into closed session to consult with the City Attorney in order to preserve the attorney-client privilege, as authorized by G.S. 143-318.11 (a) (3) concerning the matter of the lawsuit filed by the City against Southern International Fireworks Inc. and to consider matters related to a complaint made by an individual City employee, as authorized by G.S. 143-318.11 (a) (6). This motion was seconded by Councilman Worley and carried unanimously.

At 6:03 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Vice-Mayor Field and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:03 p.m.

Magdalen Bowman
CITY CLERK

MAYOR

Tuesday - December 12, 1995 - 2:10 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger, Councilman Edward C. Hay Jr., Councilman Thomas G. Sellers; Councilman James J. Skalski and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

REPORT FROM COMMON COMMUNITY VALUES COMMITTEE

Mr. Clark Olsen, Chair of the Common Community Values Committee ("CCVC"), stated that this Committee was appointed by the Buncombe County Commissioners in the spring of 1994 with their purpose being to find some way to create a sense of common values and community among the people of Buncombe County. He then summarized the accomplishments of the Committee as follows: Enlisted support of community leaders, developed a statement of common values, and integrated the question of common values and sense of community into the Asheville/Buncombe Visioning and Strategic Plan. Their recommendations for Council action are: Urge adoption of the Vision and Strategic Plan, with a recommendation that the list of Common Values be included in the Vision and Plan, and that the work of the CCVC be extended through that plan; and urge Council to commit the City government to these listed Common Values, and to develop a plan to assess and upgrade current City services so that they are consistent with the values.

Mr. Olsen then answered various questions from Council, some being, but not limited to, what was Asheville residents participation; who participated in the community meetings; how was the community notified of the meetings; how was the Committee going to ask the general public to carry out the common values; and what other cities have experienced.

Mayor Martin thanked Mr. Olsen and the other Committee members and voiced support for the common values.

Upon inquiry of Mr. H.K. Edgerton, Mr. Olsen said that there was no cost to the City in any direct way.

NUCLEAR WASTE TRANSPORTATION

Mr. David C. Hester, CP&L's Asheville District Manager, gave a brief synopsis of H.R. 1020 (Nuclear Waste Policy Act of 1995). The main thing that H.R. 1020 would do is direct the Secretary of Energy to establish an interim nuclear waste storage facility, accessible by rail, at the Nevada Test Site (Yucca Mountain) and begin accepting nuclear waste no later than January 31, 1998. He said the Bill streamlines construction and licensing of the facility noting that it does not identify transportation routes. He then went though a fact sheet noting that safety is top priority in transporting high-level nuclear waste. In the last 30 years, more than 2,000 shipments of spent nuclear fuel have been made in the United States and never has there been an accident resulting in released radiation. He explained several items, some being, but not limited to, an environmental impact statement to be completed, federal funding to be provided to affected units of local government, and rail routes approved by the Department of Transportation. He then showed a brief safety video on nuclear waste transportation. He summarized by requesting City Council not take any action that would oppose or jeopardize H.R. 1020 or any companion Bill on the floor.

Discussion surrounded questions from Council as they related to how much of Asheville's actual electrical power comes from nuclear sources; what is the current status and projection of nuclear power plants; how is Asheville equipped locally to respond in the event of an accident; why, if any transportation is through Asheville, will it be on rail; and isn't low level radiation from the casts already occurring.

Ms. Leni Sitnick said the reason the nuclear industry is asking the states to allow the shipment is because the pools that contain the rods are filling up. There has been almost four decades of neglect regarding these wastes. There has been no money, little technology and no demonstrated storage facilities that have worked. She felt that H.R. 1020 speeds up the construction and licensing and eliminates public input. It will allow politicians to set the safety standards. If an accident occurs, the only thing that local emergency management people can do is set up a road block. With nuclear substances we are all at the whim of the wind. Regarding rail transport, she reminded Council of the terrorist attack on a train in the desert not long ago. Nuclear waste transport is bad for the economy and bad for tourism. She stressed the need to leave the high level fuel rods at the nuclear power plants where they're stored now because the safeties are already in place. She feels that instead of interim storage facilities, we should stop generating the waste and start putting the money into research. She urged Council to opposed H.R. 1020 and consider public health and safety. She noted that the environmental impact statement won't be required until after the interim storage facility is already constructed and has begun operation. She felt it would be foolish to spend spending billions of dollars to construct the facility and then not license it. She said that federal funding would not come to Asheville because Asheville would not be an "affected unit of local government" as that term is defined in H.R. 1020. Even though no accidents have occurred, with the higher speeds on the highway there is an increased likelihood of an accident. She implored Council to read all the material and listen. Let's say no to an industry that has no boundaries on the waste it generates.

Mr. Ron Lambe, representing the WNC Alliance, read a letter from the Chair, dated December 8, 1995, urging City Council to follow the example set by the Buncombe County Commissioners and pass a resolution opposing H.R. 1020 and all similar legislation which would require high level radioactive waste transportation near or through Asheville. The letter, in part, reads that the transportation of radioactive materials continues to be a concern for our region as I-26 is already one of the most heavily traveled routes in the country for military radioactive materials. H.R. 1020 poses a major health threat to the citizens in Asheville and a possibly overwhelming burden on the emergency response crews. There are also serious liability concerns as well as potential adverse effects on tourism in Asheville. Should the Bill be enacted, it would be very difficult to amend or repeal it. The best defense is to go on record and send a message to our congressional delegation that this Bill is not in the best interests of the citizens of Asheville. It will cost nothing to assert some early preventive measures, and you may save the City a great deal of trouble and costs down the line.

Ms. Mimi Cecil, member of the National Board of Environmental Defense Fund, urged Council to oppose H.R. 1020 and questioned if the notification procedures were sufficient. She felt that if this matter ended up in Court, then maybe the Bill could be improved.

Ms. Kitty Boniski, Environmental Chair for the League of Women Voters (although not speaking on behalf of League), spoke in opposition

of H.R. 1020 stating that on-site storage is the way to do until such time as the real problems can be addressed.

Ms. Clark, Women's International League for Peace and Freedom, (although not speaking on behalf of them), noted that H.R. 1020 leaves a lot of things to be determined later; however, we should be concerned about them now.

Dr. Tim Takaro noted several reasons that this Bill should be opposed, noting that the primary consideration should be public health.

Upon inquiry of Councilman Hay about this being a symbolic act, Ms. Sitnick said that if every community adopted a resolution opposing H.R. 1020, it would show our congressional delegation that this is not the way we should be dealing with high level nuclear waste. We, as a nation, need to wake up and begin to address nuclear waste issues. She suggested Council take their time to review the information presented, but implored them to oppose H.R. 1020.

Councilman Skalski noted that regardless of the way it's done, we, as taxpayers, are going to have to pay for it. He said that he had serious reservations about the way of transportation. He felt that since Council has just received this information (prior information being given to the former Council), he felt more time was necessary to thoroughly investigate both sides.

CLOSED SESSION

At 3:23 p.m., Vice-Mayor Field moved to go into closed session to consult with the City Attorney in order to preserve the attorney-client privilege, as authorized by G.S. 143-318.11 (a) (3) and to establish the City's position regarding the acquisition of real property on the southside of Aston Street, as authorized by G.S. 143-318.11 (a) (5). This motion was seconded by Councilman Sellers and carried unanimously.

At 4:20 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

TCI CABLE TRANSFER FROM UACC MIDWEST INC. (d/b/a TCI CABLEVISION OF ASHEVILLE) TO BRENMOR CABLE PARTNERS, L.P.

Ms. Patsy Meldrum, Assistant City Attorney, said that this action would consider the request for a transfer of the franchise for cable television from UACC Midwest, Inc. (d/b/a TCI Cablevision of Asheville) to Brenmor Cable Partners, L.P.

TCI Cablevision of Asheville ("TCI") is owned by UACC Midwest, Inc. TCI sent a letter dated August 30, 1995, to the City Council advising it that UACC Midwest, Inc. had entered into an "Asset Exchange Agreement" pursuant to which the assets of UACC Midwest, Inc. regarding the cable television system would be transferred to Brenmor Cable Partners, L.P. ("Brenmor"). In the letter TCI requested approval of the transfer.

Federal law provides a 120-day period for the City of Asheville to act upon the request for approval of the ownership transfer. The 120-day time period begins with the date the City of Asheville received the request of TCI for the transfer (August 30, 1995). The end of the 120-day period for the City of Asheville would be December 28, 1995.

If the City Council does not act on the transfer request before December 28, 1995, the transfer is deemed approved under federal law, unless all the parties agree to extend the time period for consideration of the approval request. The City Council may approve the transfer, approve it with conditions, deny approval of the transfer or agree to an extension of the time period to consider the transfer request.

As required by federal law, TCI and Brenmor submitted an application for the City's consent to the transfer on Federal Communication Form 394 ("FCC 394") with the August 30, 1995, letter. On that form, Brenmor must provide certain certifications regarding its legal, financial and technical qualifications to operate a cable television system.

As part of that application process, Brenmor also submitted certain financial statements. After a review of those statements, City staff requested financial statements from InterMedia Partners, who will be the General Partner of Brenmor.

The City Council previously authorized contracting with a consultant to assist us in the renewal of our franchise with TCI. That consultant is Rice, Williams Associates. As part of their services, they performed a compliance analysis to determine whether or not TCI has complied with the franchise requirements. In that some issues remain about the compliance of TCI with the franchise requirements, Rice, Williams Associates recommends that any transfer approval include certain conditions to address those compliance issues.

The City Attorney's Office compiled the information received regarding the legal, financial and technical qualifications of Brenmor. Based upon the collection of that information, a letter was sent to TCI and Brenmor on December 1, 1995, requesting a response to issues raised therein. In response to that letter, a meeting to address those issues was held earlier today with representatives of TCI, Brenmor (and InterMedia), the City and Buncombe County.

As of this date, the City is awaiting further information from Brenmor regarding the legal qualification standards. Pending receipt and review by the City's legal staff prior to December 19, 1995, the legal qualification standards will hopefully be met.

As far as the technical standards, Rice, Williams Associates will be doing more tests after the first of the year. City staff reviewed references from other franchising authorities regarding the ability of Brenmor (InterMedia) to provide services to cable television subscribers. Except for Greenwood, South Carolina, and Blount County, Tennessee, other authorities were generally pleased. Ms. Meldrum reported that Brenmor will probably meet the technical standards.

With regard to the financial qualifications, the City's Finance Director is out of town and unable to review the addition information Brenmor provided to the City yesterday. Therefore, Brenmor has agreed to provide the City with financial help from the City's audit firm of Crisp, Hughes & Co. At this point, Ms. Meldrum was unable to give Council any opinion on whether Brenmor can meet the financial qualification standards.

Ms. Meldrum stated that on December 19, the City Council may approve the transfer without any conditions, approve it with conditions,

or deny approval of the transfer with findings that Brenmor failed to meet either the legal, technical or financial standards, or both parties may agree to an extension of the time period to consider the request.

Mr. Bruce Stewart, general counsel from InterMedia, spoke about the commitment which will be made by Brenmor in the southeast area. InterMedia is committed to continuing the renewal process of the franchise agreement. He stated several advantages of transferring the system to Brenmor.

When Vice-Mayor Field asked TCI General Manager Dan Martin why TCI wanted to sell this franchise, Mr. Martin said it was basically for competitive strategy.

Mr. Stewart then answered various questions from Council and the public about Brenmor's possible willingness to have City Council meetings televised, what their position is on the re-building of the system, and Brenmor's plans as it relates to Internet access.

Mayor Martin urged Mr. Stewart to work with Ms. Meldrum in clearing up any of the outstanding issues regarding this request prior to December 19, 1995.

SMALL AREA PLAN FOR WEST END/CLINGMAN AVENUE

Mr. Paul Benson, Urban Planner, said that in October of 1994 the City Council directed the staff to prepare a neighborhood plan for the "Chicken Hill" area. Since that time the staff, with the guidance of a ten person steering committee, has conducted a planning process for that area. As a result, a draft plan has been prepared and endorsed by the steering committee. If this plan is adopted, it would be an amendment to the City's comprehensive 2010 Plan.

During the planning process, a residents survey and six community meetings were held to obtain public input. The Planning & Zoning Commission held a public hearing on the plan on October 11, 1995.

The steering committee, has endorsed the draft plan. The Planning staff recommended adoption. The Planning & Zoning Commission, by a vote of 4 in favor, 2 opposed and 1 abstention, voted to recommend that the plan not be adopted.

Mr. Benson then showed Council a slide program of the area and answered various questions from Council.

Councilman Skalski suggested adding language in the plan that encouraged home ownership and the maintenance of those homes. Mr. Benson said that he would be happy to work with Councilman Skalski in adding that language.

On behalf of Council, Mayor Martin thanked the Planning staff, as well as the Steering Committee, for all the work that went into preparing this plan. He recognized three of the Steering Committee members in the audience - Ms. Karen Cragnolin, Mr. Howard Hanger and Mr. Brian McCarthy.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting, said action being to set a public hearing.

PRESENTATION OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT

Ms. Pat Leckey, City Accountant, presented City Council with the Comprehensive Annual Financial Report for the City of Asheville. As required by G.S. 159-34, outside auditors Crisp, Hughes & Co, L.L.P., of Asheville, N.C., performed an audit of the City of Asheville for fiscal year ended June 30, 1995. They gave the City a "clean" audit opinion.

AUTHORITY TO CITY MANAGER TO APPROVE ADMINISTRATIVE SETTLEMENTS FOR ACQUISITION OF REAL PROPERTY

Mr. Ed Vess, Coordinator of Field Services, said that the acquisition of real property under the power of eminent domain is often a necessary tool in carrying out projects for public purposes. That is especially true of redevelopment projects. The use of federal funds for such acquisition requires compliance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 ("Uniform Act"), as amended. It is desirable, as well as required by Uniform Act Regulations, that every reasonable effort be made to acquire real property expeditiously by negotiation. However, it is sometimes not possible to obtain an agreement to sell at the established just compensation. As an alternative to judicial resolution of a difference of opinion on the value of property, the Uniform Act Regulations permit the purchase price to exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized agency official approves such administrative settlement as being reasonable, prudent and in the public interest.

The authorization of the City Manager to approve administrative settlements will expedite the settlement process and eliminate the need to take those settlements which have very minor financial impact to City Council. Settlements having greater financial impact or sensitive circumstances may still be referred to City Council as the City Manager deeds appropriate.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

AUTHORITY FOR CITY STAFF TO EXECUTE DOCUMENTS RELATION TO HOUSING REHABILITATION LOANS

Mr. Ed Vess, Coordinator of Field Services, said that the administration of rehabilitation loans requires the execution of various documents from time to time such as insurance checks and releases related to payment of damage claims on property for which the City holds a deed of trust, subordination agreement documents, loan assumption documents, final inspection certificates, and foreclosure documents. Loans paid in full must be marked paid and satisfied and canceled of record.

The authorization of the Planning and Development Director and the Community Development Director to execute those documents, after ascertaining that the City's interest has been protected, will expedite the process and allow the City to respond more quickly and efficiently to customers.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

AUTHORITY TO CITY MANAGER TO LEASE OR RENT CITY PROPERTY FOR TERMS OF ONE YEAR OR LESS

Mr. Ed Vess, Coordinator of Field Services, said that from time to time the City receives offers to lease City property for various purposes on a temporary basis. The lease or rental of City property for short periods of time is consistent with sound property management when such use of the property and the income derived is appropriate. Under G.S. 160A-272 the City Council may delegate authority to the City Manager to lease or rent City property for terms of one year or less. Delegating authority for short term leases and rentals to the administrative level will result in the more efficient use of time for administrative staff as well as City Council.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

AUTHORITY FOR CITY STAFF TO EXECUTE DOCUMENTS RELATING TO THE SALE OF REDEVELOPMENT LAND

Mr. Ed Vess, Coordinator of Field Services, said that the sale of redevelopment property other than non-buildable parcels requires that the redeveloper (purchaser) complete certain improvements on the property, i.e. constructing or rehabilitating a structure, in accordance with the redeveloper's construction plan for the property which is approved by the City prior to conveyance. The contract for sale of land and the deed of conveyance contain reversion clauses which provide for the reacquisition of the property by the City should the redeveloper fail to complete the improvements. The reversion clauses in the contract and deed prevent the sale or mortgaging of the property (except for construction financing) until the improvements have been completed and the contract further provides that a Certificate of Completion be issued to evidence the satisfactory completion of the improvements. It is the responsibility of the redeveloper to request the Certificate of Completion. In many cases an impending sale or refinancing are contingent upon the Certificate of Completion when the request is made.

The authorization of the Planning Director and Community Development Director to execute the Certificates of Completion after ascertaining that the improvements have been completed will expedite the approval process and allow us to respond more quickly and efficiently to our customers.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

PHASE I ENVIRONMENTAL STUDY FOR SOUTH PACK SQUARE

Mr. Marvin Vierra, Community Development Director, said that the Eagle/Market Streets Development Corporation has requested that a Phase I environmental site assessment be developed for the South Pack Square Redevelopment Area (22 acres). The Assessment will be in accordance with standard minimum requirements established by ASTM E-1527 - Standard Practice for Environmental Site Assessments. The Assessment will determine if there is potential for possible hazardous material in the area. Proposals for conducting the Assessment were received from four firms and reviewed by the City's Housing and Community Development Committee. The Committee recommends contracting with Froehling and Roberson, Inc., which is a certified minority business and submitted the lowest cost based on the work requested by the City.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

PHYSICIAN SERVICES CONTRACT

Mr. John Miall, Risk Management Director, said that this resolution will authorize the City Manager to sign an agreement for physician services through the Health Services Division effective 1-1-96, for a period of 6 months.

In January, 1995 the staff reported to Council that the Health Services Division was one of several areas to be considered for privatization. Since that time an assessment of the existing operation has been undertaken by an outside source with expertise in the health care field.

Several months ago the City sent out an RFP to all primary care physicians in the community asking for proposals and costs for providing direct care through the City's Health Services office. The proposal included the provision of basic health care to dependents of employees as well.

Dr. Paul Martin has provided us with a proposal to meet all of our needs in this regard. After a six month period of his being on-site at designated hours, an evaluation of the cost-effectiveness of this arrangement will be conducted by staff, the consultant, and the City's administrator for its health benefits program. If the evaluation indicates significant cost savings over the period of the contract, a plan to privatize the operation and locate it off-premises will be developed.

The previous assessment of the current operation indicates that after accounting for prevailing market rates for health services, and factoring in the cost of the Health Services Division, that annual savings for health care last year were approximately $94,000.

The proposed agreement here will cost the City $36,000 for six months. This money will come from the accrued reserves in the Employee's Health and Benefits Trust Account, and will require no appropriation from the City.

At the present time the division is staffed by a full time nursing supervisor, and a part time registered nurse. The part time position was filled last spring upon the resignation of the second of two full time positions previously filled, and represents staff's effort not to fill the second nurse's position with a full time person until this effort at privatization is fully evaluated. If this effort is successful, we anticipate one of the nursing positions being retained in the Personnel Department to manage the contract for services, and to supervise the medical services provided as part of the evolving managed care system. This should avoid the displacement of any full time employees if the function is finally privatized.

Staff, the consultant, and the Operation's Advisory Committee all recommend the adoption of this resolution.

When Vice-Mayor Field inquired about a possible joint venture with the County, City Manager Westbrook said that first we need to see if the process works with the City.

Mr. Mike McManus, President of Strategic Planning and Research Consultants, and Mr. Miall answered questions from Mr. H. K. Edgerton as they related to soliciting minority businesses in this field.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

COUNTY APPOINTEES VOTING ON CITY ISSUES

Ms. Julia Cogburn, Planning Director, said that City Council requested information on the issue of County appointees to the Board of Adjustment and the Planning & Zoning Commission.

Several months ago staff provided Council with a report on the extraterritorial jurisdiction. This report outlined the purpose behind and authority to exercise extraterritorial land use regulation jurisdiction.

In the report it was noted that Buncombe County has appointed representation on both the Board of Adjustment and the Planning & Zoning Commission. In G.S. 160A-362, it is set forth that when a city elects to exercise extraterritorial zoning or subdivision regulation powers, it shall in the ordinance creating or designating its planning agency(ies) provide a means of representation for residents of the extraterritorial area to be regulated - both on the planning board and the board of adjustment. The statutes provide that the County representatives may have the same rights, privileges and duties as other members of these boards, or they may function only with respect to matters within the extraterritorial area. The statutes do not set forth the number of representatives required.

In Asheville, the composition of the Planning & Zoning Commission and the Board of Adjustment is as follows. Planning & Zoning Commission: Seven members - five appointed by City Council and two appointed by the County Commissioners. Board of Adjustment: Five regular members - four appointed by City Council and one appointed by the County Commissioners. Seven alternate members - five appointed by City Council and two appointed by the County Commissioners.

The County representatives in Asheville, by ordinance, have equal rights, privileges and duties as all members on the board on which they serve.

Planning staff surveyed other North Carolina cities most closely in size to Asheville to get a broader perspective on how most cities handle the voting rights issues for extraterritorial representatives. In addition, Mr. Richard Ducker, with the Institute of Government, was consulted. Mr. Ducker did not have statistics, but felt that the majority of cities that exercise ETJ allow the County appointed ETJ representatives to vote on all issues. He did state, in the alternative, that he felt a significant number of cities did limit the authority of county representatives to vote only on ETJ issues. The information from cities called is:

Henderson: (pop. 16,000) - Somewhat unusual case due to the relatively large amount of ETJ, 12,000 acres vs. 4,000 acres in city. Membership is split evenly between county and city. County appointees may vote on only ETJ cases. Three quarters of cases are in ETJ area.

Jacksonville: (pop. 78,000) - One mile of ETJ in most directions. Relatively limited membership for county appointees (1 each on Board of Adjustment and Planning & Zoning Commission). County appointees may vote on all issues.

Fayetteville: (pop. 76,000) - Not relevant as there is a joint city-county planning agency.

High Point: (pop. 70,000) - Very little ETJ, only two acres, surrounding counties have zoning. Two of nine planning commissioners are county appointees, they may vote on ETJ cases only.

Rocky Mount: (pop. 49,000) - Special legislation for ETJ extension, they have up to three miles in some areas. Jurisdiction extends into two counties. Membership is split between six city appointees and three from each county. County members may vote on all cases. 30%-40% of cases are in ETJ area.

Greenville: (pop. 45,000) - One mile of ETJ in all directions. Six city/three county planning commissioners. County appointees may vote on all cases.

Wilmington: (pop. 56,000) - No ETJ. County has comprehensive zoning. City and county are considering consolidation.

Gastonia: (pop, 54,800) - ETJ limited by adjoining municipalities. County members have full voting privileges. County representation recently reduced from two to one of a total of eight members on the planning commission, based on the relative population of the ETJ area.

Durham: (pop. 181,835) - Not relevant. No ETJ. County has zoning.

Even the small sampling in this survey reveals that there is a great deal of variation in how cities, even of comparable size, handle ETJ. Thus, the primary indication of this survey is that there exists a range of options for handling ETJ and county representation.

Ms. Cogburn said that there is a lot of staff enforcement time in the ETJ area. Twenty-five percent of budget for inspection services is spent in the ETJ, while 5-10% of planning services budget is spent in the ETJ area.

Vice-Mayor Field said that Council really needs to consider just how effective is the ETJ area that we have and is it something we want to keep. She suggested that this item be discussed at Council's upcoming retreat.

EAST FLOOR CONFERENCE ROOM RENOVATION UPDATE

Mr. Mike Brookshire, Civil Engineer for the Water Resources Department, said that for several years the Asheville-Buncombe Water Authority has desired to have a room designated for the various Water Authority meetings. Not only the Water Authority, but also City Council and other City departments are in need of alternate designated meeting rooms. An opportunity to meet these needs now exists through the proposed renovation of the North Floor Conference Room on the first floor of the City Hall.

Components of the proposed renovation include: new carpet, new lighting system, draperies, painting, new furniture (desks and chairs), development of a small kitchen space and a basic audio/visual system. The estimated cost of these improvements if $50,000. Where possible, City personnel will supply the labor for some of the renovation effort. In fact, the painting of the room, needed regardless of other improvements, has already begun with Parks and Recreation personnel.

The Water Authority will be responsible for financing this project and will recover the cost via amortized yearly credits on rents paid to

the City. This is the same arrangement that was made for the renovation of the Water Resource Department space in City Hall in 1990.

It was the consensus of Council to endorse the proposed renovation plan of the North Floor Conference Room and authorize the staff to proceed.

BOARD AND COMMISSION APPOINTMENTS

At the suggestion of Councilman Hay, it was the consensus of Council to delay taking any actions on the immediate upcoming board and commission vacancies until January in order to place at least one more ad in the CityPage, etc. to solicit applications.

Mayor Martin appointed Councilman Hay as Chair and Councilmen Sellers and Skalski to a Mayor's Committee on Board and Commission appointments. A purpose of the Committee will be to look at the necessity of maintaining all the City's boards and commissions and if the appointment process can be improved.

CONSENT:

Intent to close unnamed alley connecting two other unnamed alleys running between Blake Street and West Chestnut Street in the block between Montford and Cumberland and setting a public hearing on January 23, 1996

Agreement with NC Department of Transportation for relocation of water lines on Airport Road

Summary: NC Department of Transportation ("NC DOT") is bidding a project for the reconstruction of Airport Road from I-26 to US 25 (Hendersonville Highway). Construction of this project is scheduled to begin in January of 1996. The City has extensive existing water facilities along Airport Road that will have to be relocated to accommodate this road reconstruction project. Also, this corridor coincides with a portion of the route for the proposed 24-inch waterline from the planned Mills River Water Treatment Plant. NC DOT has included this new 24-inch waterline installation plus the relocation of other existing water facilities as a component of the road reconstruction project.

Prior to NC DOT performing these water system improvements and relocations, a Utility Agreement between the City and NC DOT must be executed. This Utility Agreement authorizes NC DOT to make water system improvements and relocations and establishes the terms of payment for same. The City is financially responsible for all water system improvements affected by NC DOT and for the relocation of all existing water facilities that are within NC DOT right-of-way. A portion of this project has been budgeted for in the Asheville-Buncombe Water Authority's Capital Construction Budget with the remainder to be paid for by the upcoming revenue bond issue.

Budget amendment relative to three video recorder/cameras for the Police Department

Summary: This budget amendment, in the amount of $14,250, is to allocate funds for the Governor's Highway Safety Program for the purchase of three vehicle video recorder/cameras for the Police Department. This expenditure is to be fully reimbursed by the Governor's Highway Safety Program.

Budget amendment relative to Amboy Road boat access

Summary: This budget amendment, in the amount of 20,000, is to establish a budget for funds received from the N. C. Wildlife Resources Commission to design a boat ramp and access area at Amboy Road.

Budget amendment relative to the Asheville Urban Trail

Summary: This budget amendment, in the amount of $56,720, is to establish a budget for the Urban Trail IV project. All costs for project will be funded by private donations/participation.

State Airport Modified Grant Agreement

Summary: This will be the Third Modified State Grant Agreement with the N. C. Department of Transportation for Phase III terminal expansion. The additional $300,000 needed will bring the amount of the grant to $1,133,260. It will also extend the time of completion of the state grant from January 1, 1996, to January 1, 1997.

Skyview Place Designated for One-Way Traffic

Summary: Skyview Place is about 750 feet in length and is located between and adjoins Town Mountain Road to the east and Sunset Drive to the west. Skyview Place is part of the City's street system but has no platted public right-of-way and asphalt varies in width from about 14 feet to 20 feet in areas where on-street parking is used.

This request would alleviate many of the traffic problems associated with this narrow, hilly roadway. This would not cause any undue hardships on the residents and motorists who utilize the road. Residents have been notified by certified mail and their comments have been favorable.

The Traffic Engineer will designate Skyview Place as a one-way roadway (north bound) effective January 1, 1996.

It was the consensus of Council to proceed with appropriate actions at the next formal Council meeting.

OTHER BUSINESS:

City Council Retreat

As a result of a Council committee, Councilman Cloninger moved to hold the City Council's annual retreat at Kanuga Conference Center beginning at Noon on Friday, February 2, through Noon on Sunday, February 4, 1995. This motion was seconded by Vice-Mayor Field and carried unanimously.

Councilman Worley did stated that an in-town versus an out-of-town retreat was discussed by the committee.

Resolution in support of peace

At the request of Daniel Breen, Mayor Martin asked Council if they would be agreeable to adopting a resolution extending Asheville's deepest sympathies and condolences to the Yitzhak Rabin family and the nation of Israel.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

H.K. Edgerton - Possible Joint Venture with Private Enterprise

Mr. H.K. Edgerton suggested Council discuss at their retreat the possibility of entering into a joint venture with the private enterprise regarding revitalization.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:35 p.m.

Magdalen Bankson
CITY CLERK

MAYOR

Tuesday - December 19, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING THE SUBDIVISION REGULATIONS WHICH WOULD PERMIT THE CREATION OF NON-RESIDENTIAL LOTS WHICH DO NOT ABOUT A PUBLIC STREET

ORDINANCE NO. 2250 - ORDINANCE AMENDING THE SUBDIVISION REGULATIONS WHICH WOULD PERMIT THE CREATION OF NON-RESIDENTIAL LOTS WHICH DO NOT ABOUT A PUBLIC STREET

Mayor Martin said that this public hearing was originally scheduled for November 28, 1995. However, the meeting of November 28, 1995, had to be canceled, due to lack of a quorum, and on November 21, 1995, a resolution of intent to set a new public hearing date on this matter was adopted.

Mayor Martin opened the public hearing at 5:05 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning & Development Director, said that the staff of the Department of Planning & Development has drafted a proposed amendment to the City's subdivision regulations which would permit the creation of non-residential lots which do not abut a public street. Adoption of the ordinance amendment would simplify the creation of commercial, institutional, and industrial lots while assuring that the lots meet minimum standards for access.

The proposed amendment was reviewed by the Planning & Zoning Commission ("Commission") at their November 1, 1995, meeting. Following review and discussion of the ordinance amendment, the Commission voted unanimously to recommend its adoption.

Under the current regulations, all subdivision lots must abut a public street. This presents a problem for non-residential properties which are located one lot back from major highways. These properties often cannot provide the 50 foot street right-of-way required by the existing regulations. Adoption of the proposed amendment would make subdivision of these properties easier by permitting the lots to be accessed by a private drive. Certain standards are established by the amendment for these drives: (1) a minimum 30-foot easement is required; (2) the easement must be recorded; (3) a road with a minimum width of 20 feet must be constructed; and (4) a road maintenance agreement must be provided for the access drive.

The Commission and the staff recommend Council's approval of this proposed amendment.

Mayor Martin closed the public hearing at 5:09 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2250. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, Ordinance No. 2250 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 251

B. CONTINUATION OF A PUBLIC HEARING TO CLOSE A PORTION OF FEDERAL ALLEY RUNNING SOUTH FROM ASTON STREET TO HILLIARD AVENUE BETWEEN ASHELAND AVENUE AND COXE AVENUE

RESOLUTION NO. 95-190 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF FEDERAL ALLEY RUNNING SOUTH FROM ASTON STREET TO HILLIARD AVENUE BETWEEN ASHELAND AVENUE AND COXE AVENUE

Mayor Martin said that this public hearing was opened on November 14, 1995, and continued until November 28, 1995. However, the meeting of November 28, 1995, had to be canceled, due to lack of a quorum, and on November 21, 1995, a resolution of intent to set an additional public hearing on this matter was adopted.

Mayor Martin then opened this public hearing at 5:10 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Assistant Public Works Director Larry Ward said that a petition has been received from Harry's Cadillac-Pontiac-GMC Truck Company Inc. requesting that the unnamed alley running south from Aston Street to Hilliard Avenue between Ashland Avenue and Coxe Avenue be permanently closed to public use. The petition received includes signatures of all property owners adjoining the portions of streets being petitioned for closing. No property owner in the area would be deprived of reasonable means of ingress or egress from their property.

The Public Works staff recommends the petition to close a portion of Federal Alley running south from Aston Street to Hilliard Avenue between Asheland Avenue and Coxe Avenue be approved.

Mr. Harold Talbert, adjoining property owner, stated that he had no objection to the portion being closed but wanted some type of right-of-way in order that he be able to get over to his property.

Mayor Martin closed the public hearing at 5:15 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Cloninger moved for the adoption of Resolution No. 95-190. This motion was seconded by Vice-Mayor Field and carried unanimously.

Vice-Mayor Field then moved to authorize the City Manager to sign an easement agreement with First Union. This motion was seconded by Councilman Worley and carried unanimously.

C. PUBLIC HEARING TO CLOSE PARKWOOD ROAD RUNNING FROM HAYWOOD ROAD TO PATTON AVENUE

RESOLUTION NO. 95-191 - RESOLUTION TO PERMANENTLY CLOSE PARKWOOD ROAD RUNNING FROM HAYWOOD ROAD TO PATTON AVENUE

Mayor Martin said that this public hearing was originally scheduled for November 28, 1995. However, the meeting of November 28, 1995, had to be canceled, due to lack of a quorum, and on November 21, 1995, a resolution of intent to set a new public hearing date on this matter was adopted.

Mayor Martin opened the public hearing at 5:16 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Assistant Public Works Director Larry Ward said that a petition has been received from R.B.R. & S.T., a N.C. Limited Partnership, requesting that Parkwood Road between Haywood Road and Patton Avenue be permanently closed to public use. The petition received include the signature of Stewart B. Coleman who is Vice President of Asheville Mall Inc. which is a general partner for R.B.R. & S.T., a N.C. Limited Partnership. The property owned by R.B.R. & S.T. encompasses both sides of Parkwood Road between Haywood Road and Patton Avenue and serves as access to no other property. Parkwood Road does serve as a through street from Haywood Road to Patton Avenue. The petitioners have no immediate intention to close Parkwood Road but to make improvements to it so it will better serve their development along the road which consists of West Terrace Apartment on the west side and Park Terrace Center office complex on the east side. Parkwood Place, which exits off Parkwood Road, is a private street due to the fact that it only serves one property owner. Parkwood Road only serves one owner as well, but since it was a through street, its dedication was accepted by the City of Asheville.

The Public Works staff recommends the petition to close Parkwood Road between Haywood Road and Patton Avenue be approved.

Councilman Sellers said that the Buncombe County Commissioners are considering moving the West Asheville library to the corner of Haywood Road and Parkwood Road. If Parkwood Road is closed, it will be inconvenient for patrons of the library since there will be no access to the library on Haywood Road or on Parkwood Road.

Mr. Stewart Coleman, representing R.L. Coleman Company, said that the term "close" is not accurate. They will not actually close the road. The reason they are requesting this action to be taken is because since 1952 when the road was dedicated to the City, the City has not maintained it. They feel that since they are doing the sidewalk, curb and road paving, they should regain ownership of the road. He stated that they have no intention on closing the road to traffic.

Upon inquiry of Councilman Cloninger, City Attorney Slawter said that even though the Colemans have no plans to close the road at this

time, if this resolution passes, any future property owner can close the road to traffic.

Mr. Coleman stressed again that it is not practical for them to close the street. In addition to being in violation with lease agreements, they have just built a new building behind the library site that needs access from Parkwood Road.

Mayor Martin closed the public hearing at 5:27 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Sellers moved for the adoption of Resolution No. 95-191. This motion was seconded by Councilman Cloninger and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 51

D. PUBLIC HEARING TO CLOSE A PORTION OF AN ALLEY NAMED BISHOP PLACE, BETWEEN ELIZABETH PLACE AND WOODLAWN AVENUE RUNNING PARALLEL TO STARNES AVENUE

RESOLUTION NO. 95-192 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF AN ALLEY NAMED BISHOP PLACE, BETWEEN ELIZABETH PLACE AND WOODLAWN AVENUE RUNNING PARALLEL TO STARNES AVENUE

Mayor Martin said that this public hearing was originally scheduled for November 28, 1995. However, the meeting of November 28, 1995, had to be canceled, due to lack of a quorum, and on November 21, 1995, a resolution of intent to set a new public hearing date on this matter was adopted.

Mayor Martin opened the public hearing at 5:28 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Assistant Public Works Director Larry Ward said that a petition has been received from Kathleen McLoughlin and other property owners along a portion of an unnamed alley between Elizabeth Place and Woodlawn Avenue requesting that this portion of the alley be permanently closed to public use. The petition received includes signatures of all property owners adjoining the portion of the unnamed alley being petitioned for closing. No property owner in the area would be deprived of reasonable means of ingress or egress from their property.

The Public Works staff recommends the petition to close the portion of the unnamed alley running between Elizabeth Place and Woodlawn Avenue and parallel to Starnes Avenue be approved.

Ms. Kathleen McLoughlin urged Council to close this because the alley is only being used for drug sales and prostitution.

Mayor Martin closed the public hearing at 5:30 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 95-192. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 53

E. PUBLIC HEARING TO CLOSE A PORTION OF SKYLINE DRIVE BETWEEN SKYLINE PARKWAY AND SKYVIEW PLACE, ALL OF SKYLINE PARKWAY, ALL OF AN UNNAMED ROAD BETWEEN SKYLINE DRIVE AND WEST VIEW ROAD NEAR THE INTERSECTION OF OAK PARK ROAD, AND ALL OF AN UNNAMED ROAD BETWEEN WEST VIEW ROAD AND SKYLINE DRIVE

RESOLUTION NO. 95-193 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF SKYLINE DRIVE BETWEEN SKYLINE PARKWAY AND SKYVIEW PLACE, ALL OF SKYLINE PARKWAY, ALL OF AN UNNAMED ROAD BETWEEN SKYLINE DRIVE AND WEST VIEW ROAD NEAR THE INTERSECTION OF OAK PARK ROAD, AND ALL OF AN UNNAMED ROAD BETWEEN WEST VIEW ROAD AND SKYLINE DRIVE

Mayor Martin opened the public hearing at 5:31 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Assistant Public Works Director Larry Ward said that a petition has received from property owners along Skyline Drive, Skyline Parkway and two unnamed roads connecting Skyline Drive to West View Road, Skyview Place, all of Skyview Parkway, all of an unnamed road between West View Road and Skyline Drive near the intersection of Oak Park Road and all of an unnamed road between West View Road and Skyline Drive requesting those portions be permanently closed to public use. The petition received includes signatures of all property owners adjoining the roads being petitioned for closing. No property owner in the area would be deprived of reasonable means of ingress or egress from their property. All the road petitioned to be closed are unopened with the exception of Skyline Drive from Oak Park Road up to the intersection of the unnamed unopened road off of West View at the intersection of West View and Oak Park Road.

Mayor Martin stated that City Council has received a letter from Mr. Oliver Pressley stating concerns about this closing. Mr. Ward responded that he had talked with Mr. Pressley that afternoon and explained what was being proposed to be closed. Mr. Pressley understood and expressed no further concern.

The Public Works staff recommends the petition to close the above portions be approved.

Mayor Martin closed the public hearing at 5:34 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 95-193. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 55

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 95-194 - RESOLUTION AUTHORIZING THE TRANSFER OF A CABLE TELEVISION FRANCHISE FROM UACC MIDWEST (d/b/a TCI Cablevision of Asheville) TO BRENMOR CABLE PARTNERS, L.P.

RESOLUTION NO. 95-195 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE CONTRACT WITH RICE-WILLIAMS ASSOCIATES, INC., FOR CONSULTING SERVICES REGARDING CABLE TELEVISION

Ms. Patsy Meldrum, Assistant City Attorney, said that this action would consider the request for a transfer of the franchise for cable television from UACC Midwest, Inc. (d/b/a TCI Cablevision of Asheville) to Brenmor Cable Partners, L.P.

TCI Cablevision of Asheville ("TCI") is owned by UACC Midwest, Inc. TCI sent a letter dated August 30, 1995, to the City Council advising it that UACC Midwest, Inc. had entered into an "Asset Exchange Agreement" pursuant to which the assets of UACC Midwest, Inc. regarding the cable television system would be transferred to Brenmor Cable Partners, L.P. ("Brenmor"). In the letter TCI requested approval of the transfer.

If the City Council does not act on the transfer request before December 28, 1995, the transfer is deemed approved under federal law, unless all the parties agree to extend the time period for consideration of the approval request. The City Council may approve the transfer, approve it with conditions, deny approval of the transfer or agree to an extension of the time period to consider.

As required by federal law, TCI and Brenmor submitted an application for the City's consent to the transfer on Federal Communication Form 394 ("FCC 394") with the August 30, 1995, letter. On that form, Brenmor provided certain certifications regarding its legal, financial and technical qualifications to operate a cable television system.

As part of that application process, Brenmor submitted certain financial statements. Subsequently, City staff requested financial information from InterMedia Partners who will be the general partner of Brenmor, after the transfer is consummated. Audited financial statements for InterMedia Partners for the twelve-month periods ending December 31, 1993, and December 31, 1994, were furnished to the City on December 11, 1995. The financial statements are typical of those for cable television companies.

Review of other information submitted on behalf of Brenmor and InterMedia Partners to the City Attorney's Office indicates that Brenmor and InterMedia Partners have the technical qualifications to operate the cable television system presently owned by TCI. The City Attorney's Office has requested that Brenmor furnish certificates of authority to transact business in North Carolina for general partner InterMedia Partners and limited partner InterMedia Partners of Carolina as one of the conditions included in the resolution approving the transfer. Other than this condition, Brenmor has the legal qualifications required.

The City Council previously authorized contracting with a consultant to assist us in the renewal of our franchise with TCI. That consultant is Rice, Williams Associates. Brenmor has agreed to pursue early renewal of the franchise agreement and a condition regarding that is set forth in the transfer approval resolution.

As part of their services, Rice, Williams performed a compliance analysis to determine whether or not TCI has complied with the franchise requirements. In that some issues remain about the compliance of TCI

with the franchise requirements, Rice, Williams Associates recommends that any transfer approval include certain conditions to address those compliance issues. The conditions recommended by Rice, Williams, as well as conditions negotiated by City staff are included in the resolution approving the transfer.

One of the compliance issues relates to whether or not all of the franchise fees due to the City from TCI have been paid during the term of the franchise held by TCI. Questions about this exist in the community as well as among City staff. City staff recommends amending the Rice, Williams Associates contract to include a franchise fee audit. The franchise fee audit would be done for three years and the cost will be $10,000.00. The current budget for the agreement with Rice, Williams Associates, Inc. can presently include this additional cost, but may need to be amended later. Their services to assist with negotiations of the franchise renewal will be done on an hourly basis and that amount cannot be fully determined until the negotiations are concluded. She said that Rice, Williams has indicated to her that they can start the franchise fee audit at the first of the year and hope to have it completed by the end of April, 1996. A resolution authorizing an amendment to that agreement is also before City Council for consideration.

Ms. Meldrum then explained to Council each one of the conditions included in the resolution approving the transfer.

Upon inquiry of Councilman Hay about Brenmor agreeing to pursue actively the renewal of the franchise by June 30, 1996, Ms. Meldrum said that Rice, Williams is comfortable with that deadline since they are half-way through the process at this time.

Ms. Meldrum then answered questions from City Council as they related to what would happen if financial documents are not furnished to the City as required by the resolution.

Upon inquiry of Councilman Skalski about a letter City Council received from Wally Bowen, of Citizens for Media Literacy, regarding TCI and their rebuilding of that system, Ms. Meldrum explained that it would be part of the renewal process rather than the transfer process. The issues raised in Mr. Bowen's letter will be addressed through the renegotiation of the franchise agreement. Rice, Williams completed a survey to many organizations asking for their comment on what type of system the community would want. Those responses will also be considered in the renewal negotiations.

Mr. Bruce Stewart, General Counsel from InterMedia, recognized that they are working with a 1967 franchise. Although June 30, 1996, is an aggressive date to complete the renewal negotiations, InterMedia pledges to move forward.

Upon inquiry of Councilman Worley, Mr. Stewart said that it looks favorable that they will carry ACC basketball games on Channel 40.

Mr. H. K. Edgerton asked if there were any plans for the public to view City Council meetings. Mayor Martin responded that that issue will be part of the franchise renewal negotiations.

Mr. Dan Martin, General Manager of TCI Cablevision, responded to questions from Wally Bowen of Citizens for Media Literacy on where TCI stands on the upgrading of the interactive telecommunications system. Mr. Bowen felt a commitment in writing should be obtained from Brenmor

to fulfill the $24 Million, 3 year rebuild that TCI stated they would do. Mr. Stewart felt that was something that can be discussed in the course of the renewal negotiations.

Mr. Stewart then responded to questions from Councilman Skalski about what percentage of the cable markets have a two-way interactive system and how is it determined if it is feasible to rebuild.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolutions and they would not be read.

Councilman Worley moved for the adoption of Resolution No. 95-194 regarding the cable television transfer. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 57

Councilman Hay moved for the adoption of Resolution No. 95-195 regarding the amendment to the Rice, Williams Associates Inc. agreement to include the franchise fee audit in the scope of services. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 61

B. RESOLUTION NO. 95-196 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH FROEHLING AND ROBERSON INC. TO PROVIDE CONSULTING SERVICES FOR A PHASE I ENVIRONMENTAL SITE ASSESSMENT FOR THE SOUTH PACK SQUARE REDEVELOPMENT AREA

Mr. Marvin Vierra, Community Development Director, said that the Eagle/Market Streets Development Corporation has requested that a Phase I environmental site assessment be developed for the 22 acre South Pack Square Redevelopment Area. The Assessment will be in accordance with standard minimum requirements established by ASTM E-1527 - Standard Practice for Environmental Site Assessments. The Assessment will determine if there is potential for possible hazardous material in the area. Proposals for conducting the Assessment were received from four firms and reviewed by the City's Housing and Community Development Committee. The Committee recommends contracting with Froehling and Roberson, Inc., which is a certified minority business and submitted the lowest cost based on the work requested by the City.

At the request of Vice-Mayor Field, Mr. Vierra said that the contract price of $5,840 will come out of the CDBG program for the South Pack Square Redevelopment Area.

Upon inquiry of Councilman Skalski about asbestos testing, Mr. Vierra responded that they will not test for asbestos in Phase I only identify if there is a potential for asbestos. If Phase II is required, testing would be done then. It was determine that asbestos has to be removed from buildings before they are torn down and that is the responsibility of the owner.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 95-196. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 62

V. CONSENT:

Resolutions & Motions:

A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 5, 1995, AND THE WORKSESSION HELD ON DECEMBER 12, 1995**

B. **MOTION SETTING A PUBLIC HEARING FOR JANUARY 9, 1996, TO CONSIDER A SMALL AREA PLAN FOR WEST END/CLINGMAN AVENUE**

C. **RESOLUTION NO. 95-197 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT FOR PHYSICIAN SERVICES THROUGH THE HEALTH SERVICES DIVISION**

Summary: This resolution will authorize the City Manager to sign an agreement for physician services through the Health Services Division effective 1-1-96, for a period of 6 months.

In January, 1995 the staff reported to Council that the Health Services Division was one of several areas to be considered for privatization. Since that time an assessment of the existing operation has been undertaken by an outside source with expertise in the health care field.

Several months ago the City sent out an RFP to all primary care physicians in the community asking for proposals and costs for providing direct care through the City's Health Services office. The proposal included the provision of basic health care to dependents of employees as well.

Dr. Paul Martin has provided us with a proposal to meet all of our needs in this regard. After a six month period of his being on-site at designated hours, an evaluation of the cost-effectiveness of this arrangement will be conducted by staff, the consultant, and the City's administrator for its health benefits program. If the evaluation indicates significant cost savings over the period of the contract, a plan to privatize the operation and locate it off-premises will be developed.

The previous assessment of the current operation indicates that after accounting for prevailing market rates for health services, and factoring in the cost of the Health Services Division, that annual savings for health care last year were approximately $94,000.

The proposed agreement here will cost the City $36,000 for six months. This money will come from the accrued reserves in the Employee's Health and Benefits Trust Account, and will require no appropriation from the City.

At the present time the division is staffed by a full time nursing supervisor, and a part time registered nurse. The part time position was filled last spring upon the resignation of the second of two full time positions previously filled, and represents staff's effort not to fill the second nurse's position with a full time person until this effort at privatization is fully evaluated. If this effort is successful, we anticipate one of the nursing positions being retained in the Personnel Department to manage the contract for services, and to supervise the medical services provided as part of the evolving managed care system. This should avoid the displacement of any full time employees if the function is finally privatized.

Staff, the consultant, and the Operation's Advisory Committee all recommend the adoption of this resolution.

RESOLUTION BOOK NO. 23 - PAGE 63

D. RESOLUTION NO. 95-198 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE ADMINISTRATIVE SETTLEMENTS FOR THE ACQUISITION OF REAL PROPERTY

Summary: The acquisition of real property under the power of eminent domain is often a necessary tool in carrying out projects for public purposes. That is especially true of redevelopment projects. The use of federal funds for such acquisition requires compliance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 ("Uniform Act"), as amended. It is desirable, as well as required by Uniform Act Regulations, that every reasonable effort be made to acquire real property expeditiously by negotiation. However, it is sometimes not possible to obtain an agreement to sell at the established just compensation. As an alternative to judicial resolution of a difference of opinion on the value of property, the Uniform Act Regulations permit the purchase price to exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized agency official approves such administrative settlement as being reasonable, prudent and in the public interest.

The authorization of the City Manager to approve administrative settlements will expedite the settlement process and eliminate the need to take those settlements which have very minor financial impact to City Council. Settlements having greater financial impact or sensitive circumstances may still be referred to City Council as the City Manager deeds appropriate.

RESOLUTION BOOK NO. 23 - PAGE 64

E. RESOLUTION NO. 95-199 - RESOLUTION AUTHORIZING THE CITY STAFF TO EXECUTE DOCUMENTS RELATING TO HOUSING REHABILITATION LOANS

Summary: The administration of rehabilitation loans requires the execution of various documents from time to time such as insurance checks and releases related to payment of damage claims on property for which the City holds a deed of trust, subordination agreement documents, loan assumption documents, final inspection certificates, and foreclosure documents. Loans paid in full must be marked paid and satisfied and canceled of record.

The authorization of the Planning and Development Director and the Community Development Director to execute those documents, after ascertaining that the City's interest has been protected, will expedite the process and allow the City to respond more quickly and efficiently to customers.

RESOLUTION BOOK NO. 23 - PAGE 65

F. RESOLUTION NO. 95-200 - RESOLUTION AUTHORIZING THE CITY MANGER TO LEASE OR RENT CITY PROPERTY FOR TERMS OF ONE YEAR OR LESS

Summary: From time to time the City receives offers to lease City property for various purposes on a temporary basis.. The lease or rental of City property for short periods of time is consistent with sound

property management when such use of the property and the income derived is appropriate. Under G.S. 160A-272 the City Council may delegate authority to the City Manager to lease or rent City property for terms of one year or less. Delegating authority for short term leases and rentals to the administrative level will result in the more efficient use of time for administrative staff as well as City Council.

RESOLUTION BOOK NO. 23 - PAGE 66

G. RESOLUTION NO. 95-201 - RESOLUTION AUTHORIZING CITY STAFF TO EXECUTE DOCUMENTS RELATING TO THE SALE OF REDEVELOPMENT LAND

Summary: The sale of redevelopment property other than non-buildable parcels requires that the redeveloper (purchaser) complete certain improvements on the property, i.e. constructing or rehabilitating a structure, in accordance with the redeveloper's construction plan for the property which is approved by the City prior to conveyance. The contract for sale of land and the deed of conveyance contain reversion clauses which provide for the reacquisition of the property by the City should the redeveloper fail to complete the improvements. The reversion clauses in the contract and deed prevent the sale or mortgaging of the property (except for construction financing) until the improvements have been completed and the contract further provides that a Certificate of Completion be issued to evidence the satisfactory completion of the improvements. It is the responsibility of the redeveloper to request the Certificate of Completion. In many cases an impending sale or refinancing are contingent upon the Certificate of Completion when the request is made.

The authorization of the Planning Director and Community Development Director to execute the Certificates of Completion after ascertaining that the improvements have been completed will expedite the approval process and allow us to respond more quickly and efficiently to our customers.

RESOLUTION BOOK NO. 23 - PAGE 67

H. RESOLUTION NO. 95-202 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED ALLEY IN BETWEEN TWO UNNAMED ALLEYS CONNECTING WEST CHESTNUT STREET AND BLAKE STREET IN THE BLOCK BETWEEN MONTFORD AVENUE AND CUMBERLAND AVENUE AND SETTING A PUBLIC HEARING FOR JANUARY 23, 1995

RESOLUTION BOOK NO. 23 - PAGE 68

I. RESOLUTION NO. 95-203 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A UTILITY AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR RELOCATION OF WATER LINES ON AIRPORT ROAD

Summary: NC Department of Transportation ("NC DOT") is bidding a project for the reconstruction of Airport Road from I-26 to US 25 (Hendersonville Highway). Construction of this project is scheduled to begin in January of 1996. The City has extensive existing water facilities along Airport Road that will have to be relocated to accommodate this road reconstruction project. Also, this corridor coincides with a portion of the route for the proposed 24-inch waterline from the planned Mills River Water Treatment Plant. NC DOT has included this new 24-inch waterline installation plus the relocation of other existing water facilities as a component of the road reconstruction project.

Prior to NC DOT performing these water system improvements and relocations, a Utility Agreement between the City and NC DOT must be executed. This Utility Agreement authorizes NC DOT to make water system improvements and relocations and establishes the terms of payment for same. The City is financially responsible for all water system improvements affected by NC DOT and for the relocation of all existing water facilities that are within NC DOT right-of-way. A portion of this project has been budgeted for in the Asheville-Buncombe Water Authority's Capital Construction Budget with the remainder to be paid for by the upcoming revenue bond issue.

RESOLUTION BOOK NO. 23 - PAGE 69

J. RESOLUTION NO. 95-204 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A THIRD MODIFIED GRANT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR PHASE III TERMINAL EXPANSION

Summary: This will be the Third Modified State Grant Agreement with the N. C. Department of Transportation for Phase III terminal expansion. The additional $300,000 needed will bring the amount of the grant to $1,133,260. It will also extend the time of completion of the state grant from January 1, 1996, to January 1, 1997.

RESOLUTION BOOK NO. 23 - PAGE 70

K. RESOLUTION NO. 95-205 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: The term of Rock McClure will expire on December 31, 1995. This resolution will appoint M. Charles Cloninger to serve according to the length of his Council term of office.

RESOLUTION BOOK NO. 23 - PAGE 72

L. RESOLUTION NO. 95-206 - RESOLUTION APPOINTING A MEMBER TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE

Summary: This resolution will appoint Councilman James J. Skalski to serve as the elected representative to the Americans with Disabilities Act Compliance Committee.

RESOLUTION BOOK NO. 23 - PAGE 73

M. RESOLUTION NO. 95-207 - RESOLUTION APPOINTING A MEMBER TO THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

Summary: This resolution will appoint Councilman James J. Skalski to serve as the Council representative, to serve as Chairman, to the Police Officers and Firefighters Disability Review Board.

RESOLUTION BOOK NO. 23 - PAGE 74

N. RESOLUTION NO. 95-208 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE CRIME STOPPERS COMMITTEE

Summary: Vice-Mayor Barbara Field has resigned from this Committee. This resolution will appoint Thomas G. Sellers to the Asheville-Buncombe Crime Stoppers Committee to serve the unexpired term of Vice-Mayor Field, term to expire June 30, 1996, at which time he is hereby reappointed to serve a three year term, term to expire June 30, 1999, or until his successor is appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 75

O. **MOTION SETTING A PUBLIC HEARING ON JANUARY 9, 1996, TO AMEND THE SIGN REGULATIONS CONCERNING MULTI-TENANT SIGNAGE IN THE CENTRAL BUSINESS DISTRICT, MARQUEE SIGNS, ANIMATED SIGNS, AND ELECTRONIC MESSAGE BOARDS**

P. **MOTION SETTING A PUBLIC HEARING ON JANUARY 9, 1996, TO GRANT A VARIANCE TO REDUCE THE RIGHT-OF-WAY WIDTH REQUIREMENT OF THE SUBDIVISION REGULATIONS FROM 50 FEET TO 45 FEET FOR THE BLUEBIRD KNOLL SUBDIVISION**

Q. **RESOLUTION NO. 95-209 - RESOLUTION EXTENDING CITY COUNCIL'S CONDOLENCES TO PRIME MINISTER YITZHAK RABIN'S FAMILY**

RESOLUTION BOOK NO. 23 - PAGE 76

R. **RESOLUTION NO. 95-210 - RESOLUTION ENDORSING COMMUNITY COMMON VALUES**

Summary: The Buncombe County Commissioners appointed the Community Common Values Committee ("CCVC") in the spring of 1994. The purpose of the committee was to find some way to create a sense of common values and community among the people of Buncombe County. After seventeen community meetings, the CCVC has finished their work and they have asked that City Council endorse the 15 community common values.

RESOLUTION BOOK NO. 23 - PAGE 77

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions and they would not be read.

Councilman Worley moved to approve the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Cloninger and carried unanimously.

Ordinances:

A. **ORDINANCE NO. 2251 - BUDGET AMENDMENT RELATIVE TO THREE VEHICLE VIDEO RECORDER/CAMERAS FOR THE POLICE DEPARTMENT**

Summary: This budget amendment, in the amount of $14,250, is to allocate funds for the Governor's Highway Safety Program for the purchase of three vehicle video recorder/cameras for the Police Department. This expenditure is to be fully reimbursed by the Governor's Highway Safety Program.

ORDINANCE BOOK NO. 15 - PAGE 253

B. **ORDINANCE NO. 2252 - BUDGET AMENDMENT TO ESTABLISH FUNDS FROM THE N.C. WILDLIFE RESOURCES COMMISSION TO DESIGN A BOAT RAMP AND ACCESS AREA AT AMBOY ROAD**

Summary: This budget amendment, in the amount of 20,000, is to establish a budget for funds received from the N. C. Wildlife Resources Commission to design a boat ramp and access area at Amboy Road.

ORDINANCE BOOK NO. 15 - PAGE 255

C. **ORDINANCE NO. 2253 - BUDGET AMENDMENT TO ESTABLISH A BUDGET FOR THE URBAN TRAIL IV PROJECT**

Summary: This budget amendment, in the amount of $56,720, is to establish a budget for the Urban Trail IV project. All costs for project will be funded by private donations/participation.

ORDINANCE BOOK NO. 15 - PAGE 257

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances and they would not be read.

Vice-Mayor Field moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Hay.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and final reading.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on December 6, 1995:

COUNTRY CLUB CONDOMINIUMS LOCATED ON DOVER STREET

Mr. Mike Matteson, Urban Planner, said that County Club Condominiums will be a 28 unit condominium development located on a 1.78 acre site on Dover Road.

The development will be located at the corner of Dover Street and Lee Street and will consist of two buildings, each with 14 units. The property will be developed in two phases. The building on the west side of the site will be constructed initially and the other building will be built at a later time. The developers are seeking a zoning vested right for the second phase of development While recognizing that it is not the developer's responsibility, the Commission expressed concern regarding the condition of Dover Street particularly at its intersection with Beaverdam Road. A resolution concerning Dover Street will be considered by the Commission at their January meeting and forwarded to Council.

At their December 6, 1995, meeting, the Commission voted 5-1 to recommend approval of this group development. The Planning Department staff recommended approval with no conditions.

Upon inquiry of Councilman Skalski, Mr. Matteson said that he did not know the cost for road improvements at this time.

Ms. Leni Sitnick felt it would be a good time for Council to consider impact fees if Dover Street needs improvements in order to accommodate the additional units. She felt it would not be fair for the taxpayers to pay for the costs associated with that development.

Mr. John Broadbooks, representing the owner, answered various questions from Council as they related to the allowable density and if the units have been priced yet.

Councilman Skalski moved to set a public hearing on the zoning vested right issue for January 9, 1996. This motion was seconded by Councilman Sellers and carried unanimously.

B. CLAIMS

The following claims were received by the City of Asheville during the week of November 23-December 6, 1995: Tamara Harris (Police), John Henry Kilgore (Water), Henry D. Severn (Inspections) and Reed & Louise Gregory (Water).

The following claims were received during the week of December 8-14, 1995: Beverly-Hanks (Sanitation), Kiku Medford (Streets), CP&L (Police), Joshua Hertel (Water), Phil Dunn (Sanitation) and Freddie Mitchell (Water).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

C. LAWSUIT ACTIONS

The following lawsuit was received by the City of Asheville on December 14, 1995: Ronnie C. Davis v. City and Civil Service Board (Petition for Certiorari). This action will be handled in-house.

The following lawsuits have been settled by the City of Asheville, which have been previously authorized by the City Council: (1) Suit filed by the City against Southern International Fireworks related to damage to some City vehicles following a fireworks show on July 4, 1993. That case was settled by payment to the City of $2,250; (2) Suit instituted by Hobson Construction Company against APAC-Carolina. APAC-Carolina then brought the City of Asheville in. This was a dispute over the street and sidewalk improvement contract on Patton Avenue. That suit settlement resulted in payment out by the City to Hobson on their contract of an additional $59,446.67.

D. BOARD AND COMMISSION COMMITTEE

Councilman Hay reported that the Board and Commission committee established by Mayor Martin has met and briefly looked into the process of making board appointments. He said that the Committee will be looking at new ways to get the word out about vacancies. He assured the public that City Council cares a lot about balance on the committees. The Committee felt that a quarterly appointment process might be more suitable than the process used currently. Also after quarterly appointments are made, there will be an opportunity for an orientation meeting with the new members to be held with Council and appropriate staff. He stated that the Committee will be meeting again on January 2.

Councilman Skalski said that the City Clerk will be notifying organizations, like the Chamber of Commerce, Council of Independent Business Owners, West Asheville Business Association, National Association for the Advancement of Colored People, Coalition of Asheville Neighborhoods, etc., far enough in advance so that newsletters can be circulated with the vacancy information in them. He also said that the Council will not be interviewing and appointing members on the same day.

E. COMMENTS BY LENI SITNICK

Ms. Leni Sitnick commented that she was glad that City Council was going to look into the board and commission vacancy process.

She stressed to Council the need to let the public know of the City's automated phone system (ARNIE). She suggested (1) some type of jingle or slogan contest to make the public aware of the system, (2) a one page ad similar to what the Citizen-Times uses for their information number, or (3) a water bill insert with the phone number and the codes.

Regarding the extraterritorial jurisdiction ("ETJ") area, she suggested that since City taxpayers pay for all the staff time associated with enforcement in the ETJ area, that (1) either the City be compensated for that time, (2) that the City get rid of the ETJ, or (3) that County appointees to the Board of Adjustment and the Planning & Zoning Commission not be allowed to vote on matters not in the ETJ area.

F. COMMENTS BY H.K. EDGERTON

Mr. H.K. Edgerton hoped to be able to have many applicants from the NAACP organization apply for vacancies on the boards and commissions.

He suggested the City work with private enterprise in order to make it possible for entrepreneurs to bring their talent, resources and creativity to the City in order to help them develop the river area.

Mayor Martin said that he would be happy to meet with Mr. Edgerton to discuss if there is a way this can be done.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:55 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - January 2, 1996 - 2:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson

Absent: City Manager James L. Westbrook Jr.

HOUSING AUTHORITY UPDATE

Mr. David Jones, Executive Director of the Housing Authority, briefed Council on Project 19 for the replacement of 50 units, 48 units which have been sold to date and the other two are under contract. He then went through all 16 sites and explained what type of unit would be built on each site. He also invited Council to a luncheon in March with the Housing Authority.

Upon inquiry of Mayor Martin regarding displacement, Mr. Jones said that the people who could not purchase a unit were offered vouchers to move into the private sector or offered units in other public housing units.

Mr. Jones then answered various questions from Council and the audience as they related to the Housing Authority being the first and second mortgage owner, what if a person moves out of the unit before the loan is paid back (Councilman Skalski asked for some specific numbers), the approximate average cost per unit, the maintenance of the units, and whether the units will meet ADA requirements.

Councilman Skalski suggested the Housing Authority meet with the Coalition of Asheville Neighborhoods once or twice a year to keep them informed. Councilman Cloninger suggested this presentation be given to the Coalition because it is so informative. Mr. Jones said that he would be happy to meet with the group because they do want community and Council input.

Vice-Mayor Field suggested a topic at the upcoming City Council retreat be the philosophy of housing.

Mr. Richard Nantelle, President of the Coalition of Asheville Neighborhoods, said that the Coalition has established a fair housing committee to perform their own study to try to develop certain areas of the City and then offer to the Housing Authority their recommendations.

MUNICIPAL BUILDING RENOVATIONS

Mr. Lyle Willis, Contract Administrator and City ADA Coordinator, said that due to concerns relating to the Municipal Building, improvement costs have been compiled to make a decision in regard to the direction that needs to be taken concerning this building.

In March 1991, the building was inspected by city inspectors, who documented approximately 130 code violations. The inspection report was discussed by City staff at some length, with no major changes resulting in the building's condition.

In April and May of 1994, the City conducted design meetings concerning the feasibility of constructing a new Municipal Building or renovating the existing building to meet life safety requirements,

building codes and ADA accessibility guidelines. The local architectural engineering firm ENG/6A, headed by R. Marshall Fields, P.E., was hired to conduct a feasibility study analyzing the cost of a new building versus renovating. The following is a recap of the summary report based on Option No. 5 of the feasibility study, which was presented to City Council in July 1994.

Building New:
Construction of new building for police department only ..$8,200,000
Construction of new multi-level parking deck 3,696,000

Renovating:
Renovation of existing Municipal Building to house fire administration and Fire Station No. 1 only, to meet all codes and requirements for an existing building..... 2,888,000

Renovation of existing Municipal Building to meet ADA requirements only, by Jan. 1995..... 190,000
Renovation of existing Municipal Building to meet life safety, building code & fire protection requirements only..... 900,000

Because of the federal requirements to complete ADA accessibility related renovations by January 26, 1995, City staff became concerned about liability exposure and the general conditions of the building. These concerns generated a request to obtain design specifications for ADA renovations to the building and to determine the actual construction industry costs of such renovations.

The ADA renovations project was bid out, and one bid was received at that time. Under contracting guidelines this single bid could not be opened and was therefore returned to the contractor. The project was readvertised a few months later, and a second bid opening was set, again with only one bid received. Total estimated ADA costs were bid at $457,000, working with a base bid and seven alternates. This bid proposal did not incorporate renovations to meet building code, fire protection and life safety requirements.

The bid for ADA renovations was analyzed by the architectural engineering firm that produced the project's design specifications. The possible reasons why the bid was so much higher than the original $190,000 estimate include:

1. Many contractors are busy at this time and prefer bidding on less complicated projects if they have the option.

2. Because the bidding package is so fragmented (base bid and seven alternates), it is compared to bidding eight separate projects with no certainty of the size of the final package. And, because of this uncertainty, the bidders (if they did choose to submit a bid) would have to include a significant mark-up for fixed expenses, overhead, etc., on each individual line item.

Regardless of why the bid prices for these renovations were so high, it must be noted that this higher cost could increase the cost estimates outlined earlier in this report. The current estimate of $2,888,000 to make all necessary improvements to the Municipal Building (ADA, building code, life safety and fire protection) to house the fire department was almost certainly an underestimation of true costs for such corrections sometime in the future.

The feasibility study lists several options for consideration. The above information pertains to Option No. 5, but the high cost of the work detailed in that option renders it not feasible at this time. Consideration must then be focused on Option No. 6, which addresses the continued operation of both the police and fire departments in the existing Municipal Building, and expanding these departments into the space now assigned to the Asheville City Schools maintenance department, which could be relocated elsewhere, and into the truck bay areas behind the current dormitories in the fire department portion of the building. This work can be phased in with the ultimate goal of providing room for expansion of the police and fire departments in years to come.

Currently, we do not have cost estimates for the Municipal Building renovations of Option No. 6 to house both the fire and police departments. Architectural engineering firm ENG/6A, which performed the feasibility study, is currently under contract.

Due to the high cost of Option No. 5 ($14,784,000), staff seeks concurrence from City Council to amend the current architectural engineering feasibility study contract (increase of $6,300) to include a detailed analysis of Option No. 6 with projected costs for renovations to the Municipal Building housing both the police and fire departments. These costs can reflect a phased-in construction process to lessen the burden of initial funding costs.

Mayor Martin saw the need for renovations at this time, however, he stressed that Council needs to plan for the future. Mr. Willis said that through the extension of this contract, the City should have a clearer picture of the overall construction renovation.

Assistant City Manager Spell gave some specifics on how the building might be renovated for additional space and said that a new building can be included in the Capital Improvements Budget.

Vice-Mayor Field stressed two issues regarding this renovation project, i.e., parking and use of the space after the Police Department moves out. Her concern was if the City continues to use the building for an additional 15 years, it will run into more parking problems. She suggested the City Manager "dust off" the parking study. She also suggested that when the Police Department does move out of the building that the most reasonable use of their space would be to move inspections in.

Councilman Hay suggested a City/County garage might be feasible. He also felt the City needed to look to the future with regard to this building.

When Councilman Cloninger asked how long the feasibility study would take, Mr. Willis was unsure because there would also have to be extensive interviews with the Police Department. Councilman Cloninger stressed the need to move quickly on this issue.

Vice-Mayor Field inquired if there was any money in the Capital Improvement Plan for ADA compliance.

It was the consensus of City Council to proceed with appropriate action at the next formal meeting.

At this time, 3:25 p.m., Mayor Martin announced a ten minute break.

LEVY SPECIAL ASSESSMENTS FOR RHODODENDRON CIRCLE PROJECT

Mr. Larry Ward, Assistant Director of Public Works, said that the City of Asheville Public Works Department received a petition from the property owners on Rhododendron Circle requesting that the street be upgraded to City street standards and placed upon the City Street System.

Public Works staff has determined that the street will need spot repairs to the base and patching with asphalt in the spot areas that are badly "alligatored" along with total resurfacing. The cost of these repairs has been estimated at $32,038.52. The current policy in Public Works is that if the majority of the petitioning property owners who represent a majority of the front footage agree to pay their share of the cost, which is 50% of the total, that the petition will be presented to City Council for consideration. Each property owner along the street has been contacted and given their 50% share of the cost as well as the opportunity to respond as to whether they agree to participate or not. Over 50% of the property owners who represent over 50% of the front footage have responded that they agree to participate in the share of their estimated amount. Out of 11 property owners, six responded "yes" to sharing the cost, four responded "no" to sharing in the cost and no response was received from one owner. The "yes" response represents 54.44%. The total front footage along the street is 1,358.91 feet. The "yes" responses represented 904.44 feet. The "no" responses including the one owner who did not respond represented 608.18 feet of frontage. The "yes" responses represents 66.56% of the frontage along the street.

Rhododendron Circle is a through street that runs between Old Haw Creek Road and Rhododendron Place. The area was annexed into the City in 1988. When the area was annexed, the City accepted all streets in the area that were publicly maintained by the N.C. Dept. of Transportation as City System Streets, with the exception of Haw Creek Road. Rhododendron Circle was not maintained by N.C. Dept. of Transportation so it did not become a City System Street.

Public Works staff recommends that City Council adopt a resolution calling for a public hearing to levy special assessments for the petitioned Rhododendron Circle Project.

Mr. Ward responded to questions from Council as they related to who pays the bill when new streets are built, the length of time required when a petition is received by the City and the time it reaches City Council, and if acceptance of this street would be of any benefit to the City.

It was the consensus of City Council to proceed with appropriate action at the next formal meeting.

BOARDS AND COMMISSIONS

Councilman Hay, Chairman of the Boards and Commissions Committee, reported on the recommendations of the Committee. The Committee suggested (1) all appointments be made on a quarterly basis with formal votes taken at the last formal meetings held in May, August, November and February of 1997; (2) a month prior to the formal vote, a procedure be established that allows time for screening and interviewing; (3) an official duty of the Vice-Mayor be to oversee the process; and (4) after an appointment is made, an orientation meeting be scheduled for new and current board members to meet with appropriate staff and Council.

Councilman Hay said that the Committee would like to continue working on the recruitment procedure. Since recruitment is very important, other avenues for recruitment have been and will be explored, e.g., posting on buses, hand outs at different locations, different and more group notices, and strong Council support. The Committee was also interested in reviewing the meeting times of the different boards and commissions. The Committee also wants to continue to work toward eliminating unnecessary boards or consolidating boards when feasible. The Committee will also be obtaining information from other cities to see how they handle making appointments.

Mayor Martin asked that an agenda item be included on the annual board/commission luncheon agenda dealing with the strong Council support of it's boards and commissions.

Councilman Skalski said that many people do not know that the committees set internally their own meeting time and date.

Assistant City Manager Spell said that should their be a determination that some boards need to be consolidated or eliminated, the legal staff will review those and then recommendations will come before the full Council.

Councilman Cloninger suggested looking at the size of each committee

City Council then proceeded with the immediate vacancies:

Board of Adjustment - City Council asked to interview Bud Taylor, Judy Long, Dennis Hodgson, Max Haner, Joe Adams, Allen Roderick, Beth Lazer and Rose Rose.

Community Relations Council - At the request of City Clerk Burleson, City Council was agreeable to postponing these appointments.

Downtown Commission - Consensus of Council to proceed with taking action at the next formal meeting to reappoint Alan Levy, Bonnie Hobbs and Chuck Pickering. Council agreed to add the Downtown Commission, as it relates to the expanded role of City Development, as a topic for the upcoming retreat. Councilman Cloninger moved to proceed with taking action at the next formal meeting to appoint Victor Trantham to fill the unexpired term of Barbara Logan, term to expire December 31, 1996. This motion was seconded by Councilman Sellers and carried unanimously. Council decided to postpone making the final appointment on the Commission, as well as the appointment of Chairman, until after their retreat.

Fair Housing Commission - Councilman Hay moved to proceed with taking action at the next formal meeting to reappoint Jim Drummond, Joyce Harrison and Jim Barrett to the Fair Housing Commission. This motion was seconded by Vice-Mayor Field and carried unanimously.

Firemen's Relief Fund - Councilman Worley moved to proceed with taking action at the next formal meeting to reappoint Mitch McEntire to the Firemen's Relief Fund. This motion was seconded by Councilman Skalski and carried unanimously.

Metropolitan Sewerage District Board - Councilman Worley moved to proceed with taking action at the next formal meeting to reappoint Larry Casper to the Metropolitan Sewerage District Board. This motion was seconded by Councilman Cloninger and carried unanimously.

Asheville Transit Authority - City Council asked to interview Jim McCulley and H. Victor Schwimmer.

CONSENT:

Hill Street Right-of-Way

Summary: Approximately one year ago, the Hill Street Baptist Church added an addition to the existing church located on Hill Street. During examination of the title for the new addition, it was discovered that a small portion of property that abuts the new addition is still under the ownership of the N.C. Dept. of Transportation ("NC DOT"). NC DOT acquired said property for right-of-way purposes to widen Hill Street when Interstate 240 was constructed. After construction if I-240 and finalization of the repair work on Hill Street, that portion of the property was left in the ownership of NC DOT. The Hill Street Baptist Church asked NC DOT to abandon/vacate said unused right-of-way. NC DOT stated that they had no opposition to the request as long as they received some acknowledgment or approval from the City since Hill Street is a City-maintained Street. City staff has reviewed the request made by Hill Street Baptist Church. As a result, staff has no opposition to NC DOT abandoning/vacating said right-of-way since the thoroughfare plan does not identify Hill Street as either a major or minor thoroughfare. This resolution provides the City's approval of NC DOT vacating said right-of-way as long as NC DOT reserves a five-foot easement for right-of-way purposes starting at the edge of the existing sidewalk and running the length of the property.

Sale of Surplus Barn on Mills River Property

Summary: The City owns 327 acres of land in the Mills River area on which the Water Resources Department plans to construct a water treatment plant. The barn is of no use to the City and unless sold for salvage it will be destroyed during construction.

It was the consensus of Council to proceed with appropriate actions at the next formal meeting.

OTHER BUSINESS:

COMMENT BY H.K. EDGERTON

Upon inquiry of Mr. H. K. Edgerton about the City's position on funding the YMI Cultural Center, Mayor Martin asked the Assistant City Manager to contact Mr. Edgerton about this.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:47 p.m.

Magdalen Bowman
CITY CLERK

MAYOR

200

Tuesday - January 9, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Hay gave the invocation.

I. PROCLAMATIONS:

A. UNITED WAY REPORT

Mr. Glenn Wilcox thanked the City Council, City Manager, City Coordinators and City employees for raising $54,582 in the 1995 United Way Campaign. City Manager Westbrook also commended the City Coordinators, Wanda Letterman and Tammy Hubert, and all City employees for their contributions.

B. PROCLAMATION PROCLAIMING JANUARY 9-16, 1996, AS "DR. MARTIN LUTHER KING JR. WEEK" IN THE CITY OF ASHEVILLE

Mayor Martin read the proclamation proclaiming January 9-16, 1996, as "Dr. Martin Luther King Jr. Week" in the City of Asheville. He presented the proclamation to Ms. Oralene Simmons and Ms. Willie Mae Brown who briefed the Council on activities that would be taking place during the week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A SMALL AREA PLAN FOR WEST END/CLINGMAN AVENUE

Mayor Martin opened the public hearing at 5:09 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that in October of 1994 the City Council directed the staff to prepare a neighborhood plan for the "Chicken Hill" area. Since that time the staff, with the guidance of a ten person steering committee, has conducted a planning process for that area. As a result, a draft plan has been prepared and endorsed by the steering committee. If this plan is adopted, it would be an amendment to the City's comprehensive 2010 Plan.

During the planning process, a residents survey and six community meetings were held to obtain public input. The Planning & Zoning Commission held a public hearing on the plan on October 11, 1995.

The steering committee, has endorsed the draft plan. The Planning staff recommended adoption. The Planning & Zoning Commission, by a vote of 4 in favor, 2 opposed and 1 abstention, voted to recommend that the plan not be adopted.

Mr. Benson then proceeded to outline each of the six focus areas and the goals associated with each area: Those focus areas are: housing, land use, utilities, traffic and pedestrian circulation, parks and recreation, and neighborhood enhancement. He then briefly discussed the implementation timetable.

At the worksession held on December 19, 1995, Councilman Skalski suggested that language in the plan be included that encouraged home ownership and the maintenance of those homes. For Council's consideration, Mr. Benson suggested the following language in Recommendation #4 of Goal #3 to read: "Ensure that any new programs encourage owner-occupancy and do not lead to displacement of existing residents or reduction in number of affordable housing units within the study area."

As a result of a request from Mr. Jerry Sternberg, Mr. Benson suggested the following language be inserted between the first and second paragraphs of the Proposed Land Use section on page 22: "The six land use categories shown on the Future Land Use Map are not intended to represent specific zoning districts, but rather to indicate generalized types of land uses, and are defined as follows: Mixed Use - a wide range of development ranging from multi-family residential to heavy industrial; Commercial/Industrial - a wide range of commercial uses, as well as lower impact industrial uses; Commercial Services - a wide range of commercial activities; General Commercial - a more limited range of commercial uses focusing on retail sales and services; Parks/Recreation/ Institutional - as explained later, intended to promote the future use of the former Queen Carson School property as a community focal point; Residential - intended to limit use to residential and to preserve the predominantly single-family, higher density character of the neighborhood. The following section expands on the corresponding land development patterns planned for specific portions of the study area."

Upon inquiry of Councilman Cloninger about the implementation of the Plan, Mr. Benson said that the Planning Department will be primarily responsible for pursuing several items in the plan and they will bring those to Council's attention when appropriate; however, the neighborhood has the real responsibility for implementation.

Jerry Sternberg briefed the Council on the history of the riverfront section as it's involved in this study. He then urged Council to delete the land starting at the Smokey Park Bridge extending south all the way to Lyman Street and bordered on the east by Roberts Street from the Plan. He feels that there are already terrible obstacles to overcome in this area, i.e., FEMA laws, floodplain laws, and the highway and railroad running through the property. His reasoning was that if the area remains in the Plan, it would just be another layer of bureaucracy for a developer to overcome. The area is already has it's own special district. He wanted to leave that area to be developed under the special river district ordinance. If Council decides to leave the area in, he would then ask for the language in the plan be amended as read by Mr. Benson above. Other than the suggested deletion above, he was supportive of the Plan.

A property owner on Rector Street voiced concerns about when three dilapidated houses on Rector Street would be torn down. City Manager Westbrook stated that the City does have a computerized list of which stage the dilapidated houses are in and he would be happy to share that information with her.

Upon inquiry of Councilman Cloninger, Mr. Benson said since a goal in the Plan is to tear down vacant and dilapidated houses, if Council

adopts this plan, it will send a message to City staff that these need to be addressed.

Mr. Clarence Birmingham, property owner in the area, urged Council to rezone his area from residential to commercial, as promised by former planner Carol Alberice. Mayor Martin said that this area would be looked at in approximately one year when the UDO mapping will take place.

A property owner on Clingman Avenue preferred not to change the area zoned heavy industrial.

Ms. Byron Ballard, resident in the area, spoke in support of the Plan and hoped Council would realize that this area is a real neighborhood of people that have a stake in the community.

Rev. W. H. Hutchison stated that he was interested in purchasing property in the Clingman Avenue area and asked if a church could be constructed. Mr. Benson responded that a church could be constructed since churches are a permitted use in residential zones. Rev. Hutchison then asked if some two of his lots could be rezoned from residential to commercial. Mayor Martin responded that that issue would be considered in the UDO mapping process.

Mr. Brian McCarthey, business owner on the river, property owner on Clingman Avenue, and Steering Committee member, strongly supported the Plan.

When Councilman Hay asked Mr. McCarthey (because he was a member on the Steering Committee) how he felt about deleting the portion Mr. Sternberg has requested, Mr. McCarthey felt both areas needed to be developed.

Mr. Bell, property owner in the area, supported the Plan but urged Council to make sure that African Americans are part of that Plan.

Ms. Gloria Free, representing people who live on Clingman Avenue who were unable to come to the meeting today due to the weather conditions, urged Council to continue the public hearing until the next formal meeting in order for those people to voice their opinions on the Plan. She said that at the next meeting, the residents in the area will provide their input and share their ideas with the Council. She appreciated the creativity and research that has gone into the Plan, but felt it lacked the input of the residents in the area.

Councilman Worley moved to continue the public hearing until January 23, 1996, without further advertisement. This motion was seconded by Councilman Skalski and carried unanimously.

B. PUBLIC HEARING RELATIVE TO REZONING TWO LOTS AT 401 OLD COUNTY HOME ROAD

Mayor Martin said that this public hearing was originally scheduled for November 28, 1995. However, the meeting of November 28, 1995, had to be canceled, due to lack of a quorum, and on November 21, 1995, a resolution of intent to set a new public hearing date on this matter was adopted. On December 5, 1995, the petitioner requested that the public hearing be rescheduled until January 9, 1996.

Mayor Martin opened the public hearing at 5:56 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this ordinance seeks to rezone lots 9629-10-26-5131 and 9629-10-26-7219 from R-3 Medium Density Residential to CS Commercial Service. The subject property is approximately 7.25 acres. The lots are located on Old County Home Road just off its intersection with New Leicester Highway. The two lots have three residential structures. The 2010 Plan recommends that this area be medium density residential. The subject property is surrounded on the north and east by residential, on the south by commercial, and the west is out of our jurisdiction.

The Planning staff reviewed the rezoning request and recommended denial of the rezoning of both lots to CS Commercial Service. At the Planning & Zoning Commission's meeting on November 1, 1995, the Commission voted 4-3 to recommend approval of the rezoning of both lots to CS Commercial Service.

Mr. Ownbey said that a valid protest petition has been received by the City thus invoking the 3/4 vote requirement of the Council.

Jones Byrd, representing the petitioner, Ms. Nettie Briggs, urged Council to rezone the 7.25 acres (which has been in her family for more than 70 years) to Commercial Service. He explained that Ms. Briggs' is 71 years old, in delicate health and is unable to maintain the property by herself. She has had her property on the market since 1993 with no offers (original listed price was $350,000). She then lowered her price to $259,000 and still has not received any offers. He said that with the recent change in the area surrounding her property into a commercial interchange and with the recent improvements made to Old County Home Road, no one is interested in buying the property with its current residential zoning. He said that with the addition of the Food Lion shopping center, her property is now bounded on three sides by businesses. There are numerous other businesses in the area and even though she is surrounded by commercial, she is not permitted to use or sell her property as commercial. He stressed that this is no longer a neighborhood residential area. He then addressed the specific items in the protest petition noting that one of the people who signed the protest petition is apparently in the family of the people that are running the commercial business beside Ms. Briggs. He presented a petition signed by 33 people that supported the rezoning to commercial. He once again stressed that when the N.C. Dept. of Transportation widened Leicester Highway and changed the roadway at the intersection by putting in turn lanes and a traffic signal, it changed the area into a commercial neighborhood. He reviewed an aerial photograph showing the location of Ms. Briggs' property and the immediately surrounding businesses and then he used photographs to show Ms. Briggs' property in relation to the immediately surrounding businesses. Affidavits from Nettie Briggs, Kenneth E. Anders, Homer Clontz and Reeves Suttles supporting the rezoning were presented to Council, along with a copy of a map from the 2010 Plan which shows that if the Briggs' property is in medium density residential, then so was the Food Lion property.

Upon inquiry of Vice-Mayor Field, City Attorney Slawter explained the protest petition formula noting that it's clear that the 20% requirement is met.

Mr. Robert Morgan, real estate broker, explained the circumstances Ms. Briggs' has gone through to try and sell her property as it is zoned

residential. His opinion was that if the property is not rezoned to commercial, Ms. Briggs will have to sell it at a very low price, perhaps in the $80,000 range.

When Councilman Hay asked if any multi-family development was considered on the property, Mr. Morgan responded that developers felt it would cost too much to develop.

Mr. Ken Anders felt it would be a benefit to Ms. Briggs for Council to rezoning the two lots to commercial since the whole community has changed to a super highway.

Ms. Nettie Briggs, petitioner, urged Council to rezone her property commercial.

Mr. Rick Wynne, owner of a two acre tract adjoining Ms. Briggs property, urged Council to deny the rezoning because it will cause commercial encroachment into the residential neighborhood on Old County Home Road, the property has no road frontage on Leicester Highway (noting that there is no shortage of commercial property on Leicester Highway), and creek drainage problems that occurred during the development of the Food Lion property would be intensified with further commercial development. He reminded Council of their commitment to the voters of being neighborhood friendly and hoped the Council would deny this rezoning request. He felt that the petition presented by Mr. Byrd that contained 33 signatures supporting the rezoning was misleading because there are no requirements on who signs a petition; however, the protest petition (which contains four signatures) must comply with strict criteria.

Mr. Dennis Wynne, owner of a two acres behind the Briggs' property, was very much concerned that if this property is rezoned commercial, what's from keeping the rest of the properties going down Old County Home Road from being rezoned commercial. He urged Council to deny the rezoning request.

Mr. Alan Justice, resident on property behind Ms. Briggs, felt that the Erwin community didn't need any more businesses. He also urged Council to remember their commitment to be neighborhood friendly. He stated that they do not want their neighborhood turned into commercial.

Vice-Mayor Field stated that there should be some transitional zoning to satisfy both issues. Ms. Julia Cogburn, Planning & Development Director, said that in the UDO process, there have been discussions about areas just like this. Different avenues, like a transition district, were discussed. More recent discussions have been about having overlays that were actually devised as appropriate for particular areas. Those overlays would be devised through public hearings and in working with a particular area involved as to what uses would work there and what uses would be compatible with what's surrounding that area. There are a couple of different solutions, however, we don't have those tools right now.

Ms. Cogburn said that the Planning staff looked at this request long and hard at this request. What convinced them to recommend denial was basically, you are turning a corner and introducing commercial on down Old County Home Road, which is a road to schools, which is residential in nature and also the terrain differential between where the Food Lion is and where that property sits to us was convincing in this particular request.

Councilman Worley clearly sees how it's very difficult to sell this property as residential when it is next to the Food Lion. He also sees that if the property is rezoned to commercial and commercial development takes place, then you create the same situation on the next lot down Old County Home Road. There does not seem to be any tools that would allow some sort of compromise where a significant buffer could be created, perhaps part of the property commercial and part of it buffered very significantly - more so than our buffering requirements allow us to do now. That would create a much better transition area from a commercial area to a neighborhood area. If perhaps that kind of buffering had taken place when the Food Lion was built, we wouldn't be facing this problem today with this piece of property.

Vice-Mayor Field said that this Council really meant what they said about being neighborhood friendly, but you can look at this piece of property and see how it would be very difficult to put anything residential in there.

Councilman Skalski stated there were three basic issues raised. One is the sheer volume of the Food Lion development which has affected the neighborhood greatly. If you look at it from sheer volume and you increase it by 30-40%, then it may be more impact on that neighborhood than it can physically take and it may cause the rest of the property owners in there to lose more percentage-wise than you would gain by rezoning the property commercial. The second issue is that maybe down the line there will be a transitional zone application that could be applied to this of property since it is currently being discussed with the UDO. The third issue is that if we do rezone the property commercial, it doesn't even really front Leicester Highway at all. He felt he needed to look at the sheer volume with respect to the neighborhood.

Ms. Cogburn responded to Councilman Skalski when he questioned if the Food Lion property was always commercial and how the Food Lion was allowed to be built next to the residential zone. She said that the development was probably underway when the extraterritorial jurisdiction zoning was taking place and typically when they are zoning those areas, they try to create as few non-conformities as possible.

Councilman Skalski said that he had received a phone call that other interested persons would like to have an opportunity to speak at this public hearing but were unable to attend due to the weather. He suggested the public hearing be postponed in order to allow those people an opportunity to be heard.

Vice-Mayor Field moved to continue this public hearing until January 23, 1996, without further advertisement, in order to give the other interested persons an opportunity to speak and also to give the Planning staff an opportunity to look at the uniqueness of this area and perhaps bring Council a different solution to the problem. This motion was seconded by Councilman Worley and carried on a 5-2 vote, with Councilmen Cloninger and Skalski voting "no".

At this time, 7:05 p.m., Mayor Martin announced a ten minute break.

C. PUBLIC HEARING TO CONSIDER A VARIANCE REQUEST TO REDUCE THE RIGHT-OF-WAY WIDTH REQUIREMENT OF THE SUBDIVISION REGULATIONS FROM 50 FEET TO 45 FEET FOR THE BLUEBIRD KNOLL SUBDIVISION

Mayor Martin opened the public hearing at 7:12 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that Ken Lawson, developer of Bluebird Knoll Subdivision, is requesting approval of a variance to permit a street right-of-way width of 45 feet rather than 50 feet as required by the City of Asheville Subdivision regulations.

Bluebird Knoll is proposed as a nine lot subdivision on 8.78 acres to be located off Eliada Home Road. The proposed subdivision is located outside the City limits in the area of extraterritorial jurisdiction. Individual wells and septic systems will serve the lots. As part of the subdivision's development, a new street will be constructed. Lawson Lane will be approximately 820 feet in length and will have a maximum grade of 11.6%. The street will be constructed to NC Dept. of Transportation standards and will be dedicated to the State for maintenance as a public street. The developer is requesting a variance to permit the street to have right-of-way width of 45 feet rather than 50 feet as required by the City of Asheville Subdivision Regulations. The developer has presented the following reasons for requesting the variance: (1) the 45 foot right-of-way width complies with NC Dept. of Transportation standards; and (2) the required recharge area for the septic systems come to the edge of the proposed 45 foot right-of-way.

The Planning & Zoning Commission reviewed the preliminary plat on December 6, 1995, and unanimously recommended approval of the variance request.

Mayor Martin closed the public hearing at 7:16 p.m.

Vice-Mayor Field moved to approve the variance request of Bluebird Knoll Subdivision to reduce the right-of-way width requirement of the subdivision regulations from 50 feet to 45 feet. This motion was seconded by Councilman Skalski and carried unanimously.

D. PUBLIC HEARING REGARDING A ZONING VESTED RIGHT FOR COUNTRY CLUB CONDOMINIUMS

Mayor Martin opened the public hearing at 7:17 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that County Club Condominiums will be a 28 unit condominium development located on a 1.78 acre site on Dover Road.

The development will be located at the corner of Dover Street and Lee Street and will consist of two buildings, each with 14 units. The property will be developed in two phases. The building on the west side of the site will be constructed initially and the other building will be built at a later time. The developers are seeking a zoning vested right for the second phase of development While recognizing that it is not the developer's responsibility, the Commission expressed concern regarding the condition of Dover Street particularly at its intersection with Beaverdam Road. A resolution from the Commission concerning Dover Street has been sent to City Council.

At their December 6, 1995, meeting, the Commission voted 5-1 to recommend approval of this group development. The Planning Department staff recommended approval with no conditions.

When Councilman Skalski questioned what the concern of the Commission member was who voted against the approval, Mr. Green felt that they were concerned over the Dover Street and Beaverdam Road intersection from a safety standpoint.

Upon inquiry of Councilman Cloninger, Mr. Green said that if the developer makes any changes to this plan, the plan would have to come back to the City Council for approval.

Councilman Hay was concerned that the development has been approved and now Council must find the money to make the improvements at this intersection. He hoped that in the future these issues would be looked at before approval is given.

Mayor Martin closed the public hearing at 7:20 p.m.

Councilman Worley moved to approve the site plan and grant a zoning vested right for Country Club Condominiums, to be located at the corner of Dover Street and Lee Street. The granting of a zoning vested right will extend the effective approval of the project from 1 year to 2 years. This motion was seconded by Councilman Cloninger and carried unanimously.

E. PUBLIC HEARING RELATIVE TO AMENDING APPENDIX A OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE REGARDING MULTI-TENANT, MARQUEE, ANIMATED, AND ELECTRONIC SIGNS

ORDINANCE NO. 2254 - AN ORDINANCE AMENDING APPENDIX A OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE REGARDING MULTI-TENANT, MARQUEE, ANIMATED, AND ELECTRONIC SIGNS

Mayor Martin opened the public hearing at 7:21 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning & Development Director, said that several months ago City Council requested that staff work with the Board of Directors at Pack Place on signage issues/proposals. As a result of discussions with the Pack Place Committee dealing with this issue, several wording amendments to the City's sign regulations have been proposed. These amendments, and the reasoning behind each proposal, are as follows:

(1) Eliminate the setback requirement for multi-tenant freestanding signage in the Central Business District (CBD). Current regulations require a 15-foot setback in the CBD for these signs.

(2) Expand the allowance of an additional marquee sign in multi-tenant developments. Ordinance provisions currently allow additional marquee signs only for movie theaters, yet, the definition of marquee signage indicates that they are allowed at theaters, (generally) auditoriums, fairgrounds and museums as well. This amendment would expand the allowance of an additional marquee sign in multi-tenant developments to those other uses and make these sections less contradictory. Marquee signage, under this amendment, would not, however, be allowed in residential districts.

(3) Define electronic message boards and permit their usage on marquee signs. Electronic message boards are not currently permitted in our ordinance. This amendment further clarifies that these message boards are not prohibited as animated signs.

Planning staff recommends and the Planning & Zoning Commission unanimously recommended, at their December meeting, that these proposed sign ordinance wording amendments be adopted.

Ms. Cogburn answered questions from Councilman Cloninger as they related to electronic message boards.

Vice-Mayor Field spoke in support of these amendments.

Mayor Martin closed the public hearing at 7:29 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2254. This motion was seconded by Councilman Hay.

On a roll call vote of 7-0, Ordinance No. 2254 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 259

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 19, 1995, AND THE WORKSESSION HELD ON JANUARY 2, 1996

B. RESOLUTION NO. 96-1 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY DISPOSAL PARCEL 118 (LOT ON RIDGE STREET) OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA TO ZANETA AND MARY REDFERN

Summary: Disposal Parcel 118 is a residential lot on Ridge Street comprising of 5,500 square feet. The bid from Zaneta and Mary Redfern for Disposal Parcel 118 includes the proposal to build a home containing 1,296 square feet, four bedrooms and two baths for their personal residence at an anticipated cost of $50,300. The Redferns have applied for the Incentive Housing Program ($1 lot) subsidy.

The bid of Zaneta and Mary Redfern in the amount of $2,500 for the purchase of Disposal Parcel 118 in the East End/Valley Street Community Improvement Area is not less than the established minimum price of $2,500.

On December 8, 1995, an advertisement ran in the paper for upset bids and no response was received. Therefore, the offer to purchase from Zaneta and Mary Redfern in the amount of $2,500 was not upset and the sale to the Redferns should be approved.

RESOLUTION BOOK NO. 23 - PAGE 80

C. **RESOLUTION NO. 96-2 - RESOLUTION APPROVING THE VACATING OF AN UNUSED NC DEPT. OF TRANSPORTATION HILL STREET RIGHT-OF-WAY**

Summary: Approximately one year ago, the Hill Street Baptist Church added an addition to the existing church located on Hill Street. During examination of the title for the new addition, it was discovered that a small portion of property that abuts the new addition is still under the ownership of the N.C. Dept. of Transportation ("NC DOT"). NC DOT acquired said property for right-of-way purposes to widen Hill Street when Interstate 240 was constructed. After construction if I-240 and finalization of the repair work on Hill Street, that portion of the property was left in the ownership of NC DOT. The Hill Street Baptist Church asked NC DOT to abandon/vacate said unused right-of-way. NC DOT stated that they had no opposition to the request as long as they received some acknowledgment or approval from the City since Hill Street is a City-maintained Street. City staff has reviewed the request made by Hill Street Baptist Church. As a result, staff has no opposition to NC DOT abandoning/vacating said right-of-way since the thoroughfare plan does not identify Hill Street as either a major or minor thoroughfare. This resolution provides the City's approval of NC DOT vacating said right-of-way as long as NC DOT reserves a five-foot easement for right-of-way purposes starting at the edge of the existing sidewalk and running the length of the property.

RESOLUTION BOOK NO. 23 - PAGE 81

D. **RESOLUTION NO. 96-3 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF A BARN OWNED BY THE CITY OF ASHEVILLE**

Summary: The City owns 327 acres of land in the Mills River area on which the Water Resources Department plans to construct a water treatment plant. The barn is of no use to the City and unless sold for salvage it will be destroyed during construction.

RESOLUTION BOOK NO. 23 - PAGE 83

E. **RESOLUTION NO. 96-4 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDMENT TO THE EXISTING ENG/6A MUNICIPAL BUILDING FEASIBILITY STUDY CONTRACT TO OBTAIN ADDITIONAL STUDIES TO DETERMINE FEASIBILITY OF PHASED RENOVATIONS TO THE MUNICIPAL BUILDING TO HOUSE POLICE AND FIRE ADMINISTRATION PERSONNEL AND THEIR PROJECTED GROWTH THROUGH THE YEAR 2010**

Summary: Due to concerns relating to the Municipal Building, improvement costs have been compiled to make a decision in regard to the direction that needs to be taken concerning this building.

The feasibility study lists several options for consideration. The above information pertains to Option No. 5, but the high cost of the work detailed in that option renders it not feasible at this time. Consideration must then be focused on Option No. 6, which addresses the continued operation of both the police and fire departments in the existing Municipal Building, and expanding these departments into the space now assigned to the Asheville City Schools maintenance department, which could be relocated elsewhere, and into the truck bay areas behind the current dormitories in the fire department portion of the building. This work can be phased in with the ultimate goal of providing room for expansion of the police and fire departments in years to come.

Currently, we do not have cost estimates for the Municipal Building renovations of Option No. 6 to house both the fire and police departments. Architectural engineering firm ENG/6A, which performed the feasibility study, is currently under contract.

Due to the high cost of Option No. 5 ($14,784,000), staff seeks concurrence from City Council to amend the current architectural engineering feasibility study contract (increase of $6,300) to include a detailed analysis of Option No. 6 with projected costs for renovations to the Municipal Building housing both the police and fire departments. These costs can reflect a phased-in construction process to lessen the burden of initial funding costs.

RESOLUTION BOOK NO. 23 - PAGE 84

F. RESOLUTION NO. 96-5 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: The terms of Alan Levy, Bonnie Hobbs and Chuck Pickering expired on December 31, 1995. This resolution will reappoint them, respectively, to an additional two year term, term to expire December 31, 1997, or until their successors have been appointed. Barbara Logan has resigned from the Downtown Commission. Victor Trantham is appointed to fill Ms. Logan's unexpired term. His term will expire December 31, 1996, or until his successor has been appointed.

RESOLUTION BOOK NO. 23 - PAGE 85

G. RESOLUTION NO. 96-6 - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE FAIR HOUSING COMMISSION

Summary: The terms of Jim Drummond, Joyce Harrison and Jim Barrett expired on December 31, 1995. This resolution will reappoint them, respectively, to an additional three year term, term to expire December 31, 1998, or until their successors have been appointed.

RESOLUTION BOOK NO. 23 - PAGE 86

H. RESOLUTION NO. 96-7 - RESOLUTION REAPPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Summary: The term of Mitch McEntire expired on January 1, 1996. This resolution will reappoint Mr. McEntire to serve an additional two year term, term to expire January 1, 1998, or until his successor has been appointed.

RESOLUTION BOOK NO. 23 - PAGE 87

I. RESOLUTION NO. 96-8 - RESOLUTION REAPPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

Summary: The term of Larry Casper expires on January 19, 1996. This resolution will reappoint Mr. Casper to serve an additional three year term, term to expire January 19, 1999, or until his successor has been appointed.

RESOLUTION BOOK NO. 23 - PAGE 88

J. MOTION SETTING A PUBLIC HEARING FOR JANUARY 23, 1996, TO CONSIDER A VARIANCE REQUEST FOR COURTYARD OF ASHEVILLE

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions and they would not be read.

Councilman Worley moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Cloninger and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission on January 3, 1996:

EXPANSION OF CARE-FREE WINDOWS/KINCO DIVISION AT 150 WESTSIDE DRIVE

Mr. Gerald Green, Senior Planner, said that on December 4, 1995, the Planning Department received the site plan for the expansion of the Care Free Windows light industrial facility located at 150 Westside Drive in the Westside Industrial Park. The proposed expansion will add approximately 52,000 square feet to the existing 85,000 square foot facility. The expansion also includes an expanded parking lot. The site plan was presented to the Technical Review Committee on December 11, 1995, for their comments.

On January 3, 1996, the Commission reviewed the site plan and opened the meting for public comment. Those that spoke did support the project; however, there was some concern over the existing street infrastructure and its ability to carry the additional work trips that will be generated. This expansion will increase the number of jobs from 80 to 150. The 1993 traffic counts through this intersection is approximately 4,000 vehicles a day. A traffic study done last summer by NC Dept. of Transportation indicated that this intersection did not warrant a signal and even with the increase of 140 trips a day (70 jobs x 2 trips) this would not come close to the minimum number of trips (approximately 7,000) needed for the signal.

One adjoining property owner voiced his concern over the outside lighting that illuminates into his home. He requested that some additional trees be planted between his property and the parking lot expansion. After the meeting, the developer and the property owner agreed to the installation of four additional trees along the south parking lot perimeter which should assist in buffering the owner's home from the outside lighting.

The Planning staff and the Commission voted unanimously to approve the project with the condition that a letter from the County Fire Marshal indicate adequate water flow for fire protection. The Fire Marshal's Office has been contacted and they have stated that the water flow is sufficient for fire protection for the proposed project.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

A-B Technical College Rhododendron Building

Mr. Gerald Green, Senior Planner, said that A-B Tech is proposing a 14,875 square foot addition to the Rhododendron Building on the A-B Tech campus.

The four story addition will be placed on the northwest side o the existing building and will be used for academic purposes. The property is zoned Office Institutional ("OI"). Access to the addition is provided by Victoria Road. The site plan meets all of the development standards in the OI zoning district. Existing parking is adequate to serve the addition.

At the Commission's January 3, 1996, meeting, they voted unanimously to recommend approval of this group development with the following condition: (1) receipt of letters of approval for water and sewer availability. Both of these agencies have been contacted and they have stated that the approval letters are on their way.

The Planning Department staff recommended approval with the same condition recommended by the Commission.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

B. CLAIMS

The following claims were received by the City of Asheville during the week of December 15-20, 1995: Lars Johan Bjorkman (Streets), Lucille Norton (Finance), Jacqueline Christian (Police), Dave LeMieux (Police) and Bell South (Water).

The following claims were received during the week of December 21, 1995 - January 4, 1996: Donna E. Daniels (Police), Eddie Allison (Sanitation), Donia Rice (Water), Donnie Oakes (Parks & Recreation), Michael McDlanahan (Water), Mark Walkowe (Inspections), Highland Park (Water), Christine Webb (Water), Bell South (Water) and Melanie Johnson (Police).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

C. LAWSUIT

The following lawsuit was received by the City on December 20, 1995: County of Buncombe v. City and Deborah Anderson (property tax foreclosure).

This lawsuit will be handled in-house.

D. GREAT SMOKY MOUNTAINS NATIONAL PARK ALLIANCE OF COMMUNITIES

City Manager Westbrook informed City Council that the Great Smoky Mountains National Park Alliance of Communities has requested Asheville to become a part of this alliance. The alliance's mission is to work to affect the Park in a positive way: addressing issues which the alliance deems impacting and vitally important to its represented communities, their residents, and visitors as a whole. The first organizational meeting will be on Monday, January 22, 1996, at 2:00 p.m., in the Gatlinburg Convention Center.

He suggested that it might be good for a Council member to go to the first meeting to see if this is something Asheville would be interested in joining.

E. SNOW REPORT

City Manager Westbrook gave a snow removal report to the Council.

Mayor and Council thanked various City departments, in particular the Public Works Department, for the fine job they have done with handling this winter storm.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:48 p.m.

Magdalen Bunlison
CITY CLERK

MAYOR

Tuesday - January 16, 1996 - 2:10 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

HANDMADE IN AMERICA PROJECT UPDATE

Mr. Jack Cecil briefed the City Council on the beginnings of HandMade in America.

Ms. Rebecca Anderson outlined the following projects that HandMade is current involved with: Economic Survey of Crafts in WNC; Craft Heritage Corridor; Investment Bank; Job Training Program; Institute of Creativity, Research and Design; Crafts Registry; Teacher Certification Program and Business Development Seminar; and, the Insurance Survey.

Ms. Anderson spoke very proudly of the National Planning Association Exemplary City Award that Asheville received for HandMade in America in November of 1995.

Vice-Mayor Field spoke in strong support of HandMade and noted that these craftsmen are actually bringing in a different kind of economic development into Western North Carolina.

Ms. Anderson answered questions from Mr. H.K. Edgerton regarding African American participation in HandMade in America.

Mayor Martin, on behalf of Council, thanked Ms. Anderson and Mr. Cecil for updating the Council on this very important organization which promotes and develops the handicraft industry in Western North Carolina.

PETITION FOR REZONING PORTION OF HAW CREEK AREA

Ms. Patty Joyce, Senior Planner, said that a petition has been submitted asking the City to consider rezoning 313 parcels in the Haw Creek section of the City from R-3 to R-2.

The petition meets the requirements of Section 30-11-1 (c) of the zoning ordinance. This section provides that "any group of individual property owners who compromise a minimum of 51% of the property owners in the area and who own at least 51% of the property located within the area to be considered ... may request that the City Council consider initiating a special zoning study to determine if a change in the development plan for the area in question is warranted." Staff has reviewed a petition for the rezoning of over 246 acres of the Haw Creek neighborhood from R-3 Medium Density Residential to R-2 Low Density Residential, submitted by Mr. Chris Pelly, President of the Haw Creek Homeowners Association. Staff has reviewed the signatures on the petition and has determined that it contains signatures of 51% of the property owners who combined acreage comprises 51% of the total acreage located within the area proposed for rezoning. Therefore, the petition is valid and is presented to City Council for their consideration.

If the Council wishes to direct the Planning & Development Department to prepare a special zoning study of the area in question, the results of the study will first be heard by the Planning & Zoning

Commission for their recommendations. City Council would then hold a public hearing, review the recommendations and make a final determination for any zoning changes.

The Planning & Development Department is working to present the Unified Development Ordinance ("UDO") for Council's consideration this year. In addition, after seeking community input, staff will also present a proposed zoning map which will incorporate the new zoning districts, as finally defined in the text of the UDO.

The Haw Creek Valley, along with each area of the City, will be a part of the comprehensive, City-wide UDO process. While recognizing that the UDO project has been considered by the City for several years, staff recommends incorporating the study of the Haw Creek community with the comprehensive City-wide study of zoning district changes based on the UDO for action at a later time.

Mayor Martin felt that the Haw Creek community has waited a long time for the UDO and since the mapping process is at least a year away, he would be supportive of initiating a rezoning study at this time of the area.

Ms. Joyce answered questions from Council as they related to how much staff time and what type of actions would be involved in the study, if this study could be incorporated into the UDO mapping project when it gets underway, how staff might make their recommendations if the rezoning created many non-conformities and how soon the study could come back to City Council for action.

Mr. Jack Parisot urged Council to proceed with the study at this time and not wait on the UDO mapping to hopefully avoid another Haw Creek Mews situation.

Mr. H. K. Edgerton made comments relative to the Housing Authority developments in neighborhoods. Mayor Martin stated that as long as the Housing Authority conforms with all local zoning standards, they cannot be denied the opportunity to build in neighborhoods.

Councilman Cloninger didn't want to bog down the Planning staff by working on individual zoning studies when they really need to be concentrating their efforts on the UDO; however, the Haw Creek community has been patient and has waited a long time for this study and supported the study taking place at this time.

When a man in the audience stated concerns about developers who will come in soon and start to build, Ms. Joyce said that she didn't know of any type of concrete development planned for the area at this time.

Vice-Mayor Field said that typically in the past if Council has a study underway, they would probably tell the developer that staff is working on the study and more than likely table the issue until the study is complete. She didn't see how Council could make a commitment at this time to not allow any development in the area.

Upon inquiry of Councilman Cloninger, City Attorney Slawter said that under the statute, the issuance of the permit is what is important rather than the date of the application for the purpose of establishing vested rights. However, case law has held that vested rights have been established based upon reliance upon zoning and expenditure of funds based upon that reliance.

Upon inquiry of Ms. Maggie Lauterer if the City could impose a moratorium on development in Haw Creek, City Attorney Slawter said that the City has only enacted moratoriums as they related to health. It was his opinion that City Council could not impose a moratorium on development pending the outcome of an application for rezoning.

Mr. Martin urged Council to rezone the area from 16 units per acre to 6 units per acre because it is more keeping with the nature of the neighborhood. He requested a moratorium for new permits.

Mayor Martin instructed the City Manager to meet with the City Attorney to see if there was any way the City could restrict development in the area until the study is received by Council.

It was the consensus of Council to proceed with a resolution directing the Planning & Development Department to prepare a special zoning study of the Haw Creek Community at the next formal meeting.

RENEWED ECONOMIC DEVELOPMENT EFFORTS FOR THE CITY OF ASHEVILLE

Ms. Julia Cogburn, Planning & Development Director, said that for several months two issues have been discussed with many unanswered questions surrounding them. Those issues are: (1) What should be the role of the current City Development Division; and (2) What should be the future of the City Development Office at 29 Haywood Street. She then outlined a proposal for renewed economic development efforts for the City. She also provided Council with information regarding economic development programs in other cities.

The staff is recommending that the City Development Division's role be expanded to encompass a broader range of economic development issues. Its mission would be to create an attractive business environment in Asheville by coordinating the general economic development and business district revitalization efforts of the City. Efforts already underway in such areas as the continued revitalization of downtown and the West Asheville Business District would continue. She stated four reasons for renewed/expanded City role: (1) to provide active leadership with regard to the City's economic development policy; (2) to establish department/division with economic development focus for the City and to carry out City Council initiatives with regard to economic development; (3) to continue to build strong network/working relations with other economic development entities, reinforce Chamber of Commerce efforts and provide a central point for economic development reference for the City; and (4) to broaden efforts to reach out to the business community through needs assessments, statistical reporting and providing appropriate assistance. Additional focus areas could be: serving as the business community ombudsman for the City; administering the City's Economic Development Policy; and conducting regular surveys to assess the business climate in Asheville.

Some specific recommendations include: (1) City Development Division become a Urban Economic Development Division for the City in the Planning & Development Department; (2) the Director of the Division is Economic development Coordinator for the City and recruit an individual with economic or business development background; (3) consider the current Downtown Commission evolving into an Urban Economic Development Commission for the City while the downtown area would remain an important focus with perhaps a subcommittee. It is also recommended that City Council discuss this issue with the Downtown commission and the business district coalition to determine their focus; (4) review the economic development policy with Council to make any necessary revisions

and to establish annual funding under the police; and (5) work with City Council to establish economic development priorities/strategy on an annual basis.

The staff is also recommending that 29 Haywood Street be retained as the Urban Economic Development Center for the City. We see other possibilities for utilizing the building such as the possibility of establishing a police/community resource center there.

She stated that there will be no additional staff being hired.

Councilman Cloninger moved to retain 29 Haywood Street and not put it on the market to be sold. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Skalski spoke in support of this new proposal.

Vice-Mayor Field had hoped that this proposal be delayed in order to give her time to review it thoroughly, having only received the information on Friday. Her initial reaction is that if the City is going to do economic development, then we don't need to be appropriating $90,000 to the Chamber of Commerce to do it for the City. She expanded by saying that she thought there might be a duplication of efforts with the Chamber, but it was her understanding that the Chamber is only focusing on industrial development for the County and thus was very concerned over the City appropriating the $90,000. She also felt the City needs to be providing and looking at some type of infrastructure for corporate offices. Since there are many organizations doing industrial recruitment, this leaves the City open to do some innovative things. She really would like some time to sit down with staff and develop a more exciting economic development plan.

Vice-Mayor Field said that with regard to 29 Haywood Street, she felt there was all kinds of positive opportunities for that space but stressed that some clean-up work needed to take place first. She did not, however, support the use of that building as a police resource center since the main Police Department is only blocks away. She stressed that we need a process, plan and strategy. She appreciated the work of the staff on this proposal; however, she didn't think it goes far enough.

Ms. Cogburn responded to questions as they related to what the Chamber is doing with the City's $90,000 (which includes the City's share of the convention and visitors bureau, the visitors center, and also small business assistance). She felt the function of this office would not be duplicating efforts already being performed by the Chamber and other organizations. She envisioned the Economic Development Coordinator working with City Council to devise the strategies of the Division.

Vice-Mayor Field's final concern surrounded the abolishing of the Downtown Commission. She felt that downtown is special and important and a key to our economic future and we need to maintain that focus.

Councilman Worley felt the plan is basically moving in the direction that the City should be moving in. He felt the term "economic development" may be misleading, however. He felt this proposal will take what has been done in the downtown area and carry that experience to the rest of the City. Even though there is more to do in the downtown area, he felt the City is moving into a maintenance mode in that area. He hoped Council would move forward with this plan but stressed not to de-emphasize the downtown area.

Vice-Mayor Field disagreed with Councilman Worley stating that nothing has been done in the South Pack Square and nothing around the Federal Building.

Councilman Cloninger felt the proposal was move of an organizational plan and not a policy. He felt that some of Vice-Mayor Field's concerns would be addressed when they review the economic development policy and the annual funding issue. He agreed with the concept of expanding City-wide and using the lessens we have learned in revitalizing the downtown area. He did not support the idea of expanding the Downtown Commission City-wide. He felt the Downtown Commission serves a very useful purpose relating to items facing the downtown area. He then made statements concerning the need for the business district coalition being recognized.

Council then discussed the pros and cons of an overall economic development commission.

Councilman Hay said what appealed to him was that we were taking existing staff and resources to develop a program throughout the city. He also liked the idea of a business ombudsman on staff. He felt the proposal was basically good but some fine tuning would need to be done.

When Vice-Mayor Field asked Interim City Development Director Mary Fierle how she felt about the proposal, she said that they were cautiously optimistic with the proposal.

City Manager Westbrook said this would refocus the entire operation and staff wants Council's concurrence with that refocusing effort. There isn't any overlap here with the Chamber and the Chamber is doing a fine job. We need to start making strategic plans with room to be innovative. Once the concept is accepted, we can begin working with Council and the community as to what can be done.

Mr. Jay Garner, Executive Director for the Chamber of Commerce, explained how the Chamber is involved with economic development. He did point out that the Chamber's focus is not entirely on industrial development, that they also work with small business enterprise. He felt the City's plan will compliment the Chamber's efforts significantly and, thus, the Chamber supports the plan.

Mr. H.K. Edgerton voiced questions of where African Americans fit into the economic development process and how do they start bringing their creativity into downtown Asheville. He also questioned if the Minority Business Program would be moved from the Purchasing Division. Ms. Cogburn replied that the MB program would not be moved.

Ms. Leni Sitnick said that economic development takes various forms. She supported the idea of a business community ombudsman for the City. She suggested a Council committee of three be established to visit the industries already here to see how Asheville can serve them better. She stated that there are different kinds of investments and Council should look for the kind of investments that start here and stay here, e.g., a mass transit system. Basically she felt Asheville needed a Public Relations person to let people how great Asheville really is.

Councilman Worley suggested this proposal be presented to the Downtown Commission and the business district coalition for their suggestions. Ms. Cogburn said that she would be happy to make this presentation to those bodies.

It was the consensus of Council to support the basic premise with details to be worked out.

RENAMING THE WEST ASHEVILLE/HAYWOOD ROAD BRIDGE TO THE WEST ASHEVILLE/RIVERLINK BRIDGE

Ms. Julia Cogburn, Planning & Development Director, said that RiverLink has an interest in seeing the West Asheville/Haywood Road Bridge renamed the West Asheville/RiverLink Bridge. This bridge is the critical link between the downtown and the heart of West Asheville commercial business district. RiverLink sees the bridge serving a the symbol for the river redevelopment project.

Procedurally the name change, if requested by the City, must go to our Board of Transportation member, Gordon Myers. Mr. Myers will then pass the request on to the full Board of Transportation in Raleigh which will act on our request.

The West Asheville Business Association and the West Asheville Steering Committee have both been apprised of this request. Their only concern is that "West Asheville" remain in the name.

Councilman Skalski moved to take appropriate action at the next Council meeting to send a letter to Mr. Gordon Myers and Mr. Bill Smart to recommend that the N.C. Dept. of Transportation change the name of the West Asheville/Haywood Road Bridge to the West Asheville/RiverLink Bridge. This motion was seconded by Councilman Sellers and carried unanimously.

CONSENT AGENDA:

Budget Amendment regarding Crime Analysis Mapping Project

Summary: This budget amendment, in the amount of $31,753, is to set up an appropriation to fund project costs associated with the Police Department's N.C. Dept. of Crime Control & Public Safety grant funded community policing program.

Reimbursement of Capital Expenditures regarding the Water Bonds

Summary: The City is in the process of preparing for the issuance of Water Revenue Bonds. This resolution is required by the internal Revenue Service if the City wishes to reimburse itself for any expenditures incurred prior to the date of closing on the bonds.

RiverLink Grant Requests

Summary: Recently RiverLink received a $15,000 grant from the Tennessee Valley Authority towards a $60,000 goal to be used to develop a master plan, economic impact analysis, and anchor project for the area between the I-240 Bridge and the corner of Depot Street, Riverside Drive and Lyman Street. RiverLink has spoke with both the Buncombe County Economic Development Commission and Advantage West about matching funds. They are asking for $22,500 from each agency. RiverLink is requesting that the City submit letters to the Buncombe County Economic Development Commission and Advantage West endorsing the RiverLink funding requests.

Establishment of a Design Review Board for the Head of Montford, East End/Valley Street and East Riverside Redevelopment Projects

Summary: The redevelopment plans for the Head of Montford Redevelopment Project, East End/Valley Street Community Improvement

Program and East Riverside Redevelopment Project provide for a Design Review Board to review each developer's plans and to advise on such matters as: adequacy of off-street loading, adequacy of off-street parking, provisions for open space, appropriate and densities, landscaping, provisions for aesthetic objects, group development, harmony of design, quality of design, and compliance with historic preservation guidelines and other provisions of the Redevelopment Plan.

The composition of the Design Review Board under the redevelopment plans included: the Housing Authority Executive Director, the City Planning & Development Director, the City Planning & Zoning Commission Chairman and two architects to be appointed by the Housing Authority. Since the responsibility for redevelopment property now rests with the City of Asheville, the Community Development Director should replace the Housing Authority Executive Director on the Design Review Board and the City Director of Planning & Development should be authorized to appoint two architects as needed to serve on the Design Review Board.

Vice-Mayor Field felt that since the Housing Authority has been involved a long time with redevelopment and has extensive experience, she felt that they should have some type of representation on the Design Review Board.

Mayor Martin saw the merit of having someone with experience on that Board. He suggested the City Director of Planning & Development be authorized to appoint the Housing Authority architect. Mr. Ed Vess, the City's Coordinator of Field Services, said that the Housing Authority's architect does not have a lot of experience and the Housing Authority assumed that they would come off of the Design Review Board.

Request for Support from A-B Arson Task Force

Summary: In 1992, the City of Asheville and Buncombe County created the A-B Arson Task Force ("ABATF") as a join-exercise-of-powers agency. Since that time, ABATF has been an extremely successful example of effective City-County cooperation. Its success rate in determining fire cause is very high, as is its arrest/conviction rate. ABATF has been cited nationally by the U.S. Fire Administration as a model cooperative effort to combat arson.

For the past two years, members of the ABATF Board of Directors have worked to raise the estimated $40,000 needed to acquire and mobile an arson investigation field unit. Approximately 75% of the needed funds - $30,000 - are in hand.

The ABATF has adopted a resolution requesting support from the City and County in the form of $5,000 from each, to allow ABATF to proceed with the acquisition of this mobile arson response unit.

It was the consensus of Council to proceed with appropriate actions necessary from the Consent Agenda at the next formal meeting.

BOARD AND COMMISSION APPOINTMENTS

Vice-Mayor Field suggested the Boards and Committees Committee look at the Council policy as it relates to someone serving two years not being eligible for reappointment.

Board of Adjustment - City Council asked to interview Judy Long, Joseph Brady, Leon Rocamora and Bill Branyon.

Citizens/Police Advisory Committee - City Council asked to interview Doyle Freeman, Dick Rice and David Sands. It was the consensus of Council to appoint Councilman Tommy Sellers as the Council appointment (to be a non-voting member).

Community Relations Council - Councilman Hay moved to take formal action to reappoint Bernadette Thompson. This motion was seconded by Vice-Mayor Field and carried unanimously. City Council then asked to interview Cynthia Janes, Cassandra Ingram, Lionel Williams, Luke Carpenter, Leslie Daugherty and Kathryn Liss.

Transit Authority - Councilman Cloninger moved to proceed with taking action at the next formal meeting to appoint Jim McCulley to the Asheville Transit Authority. This motion was seconded by Councilman Hay and carried unanimously.

OTHER BUSINESS:

Planning Meeting to develop plan regarding drug abuse

Mayor Martin invited Council to a meeting on Thursday, January 18, 1996, from 1:00 - 5:00 in Room 623 of the City Hall Building. This meeting will involve community leaders who will work on a comprehensive strategy to rid our community of drug abuse.

Comments by Leni Sitnick concerning Board of Adjustment and Planning & Zoning County Appointments

Ms. Leni Sitnick suggested City Council amend its local ordinance to allow County appointees to the Board of Adjustment and the Planning & Zoning Commission to vote on matters only inside the extraterritorial zoning jurisdiction (ETJ). Of, if Council continues to allow these appointees to make decisions concerning City issues, to ask Buncombe County to recompense the City for staff time and cost to the City.

She noted that when Buncombe County Commission Chairman Rainey was asked how he felt about this, his response was that he didn't have a problem with the change. Now is the time to make that change.

CLOSED SESSION

At 5:03 p.m., Councilman Worley moved to go into closed session: (1) as authorized by G.S. 143-318.11 (a) (5) to establish the City's position regarding the acquisition of real property (a) at the intersection of Coxe Avenue and Aston Street; and (b) on Page Avenue; (2) as authorized by G.S. 143-318.11 (a) (6) to consider the performance of an individual public officer or employee. This motion was seconded by Vice-Mayor Field and carried unanimously.

At 6:10 p.m., Mayor Martin moved to come out of closed session. This motion was seconded by Councilman Hay and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:10 p.m.

Magdalen Bowman
CITY CLERK

MAYOR

Tuesday - January 23, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Sellers gave the invocation.

TROOP 75 OF THE BOY SCOUTS

Mayor Martin recognized Mr. Randall Barnett and Troop 75 of the Boy Scouts.

MOBILE ARSON INVESTIGATIVE FIELD UNIT

Mr. Ron Moore, Chairman of the Asheville-Buncombe Arson Task Force, passed out a list of accomplishments from the Task Force. He also thanked the City Council for their monetary support for the purchase of the mobile arson investigative field unit.

ASHEVILLE TRANSIT AUTHORITY

Mr. Jim McCulley thanked the City Council for their confidence in his appointment to the Asheville Transit Authority.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING TO CONSIDER A SMALL AREA PLAN FOR WEST END/CLINGMAN AVENUE

RESOLUTION NO. 96-9 - RESOLUTION ADOPTING A SMALL AREA PLAN KNOWN AS THE WEST END/CLINGMAN AVENUE PLAN AS AN ADDENDUM TO THE COMPREHENSIVE PLAN FOR THE CITY OF ASHEVILLE (ASHEVILLE CITY PLAN 2010)

Mayor Martin said that this public hearing was opened on January 9, 1996, and continued until this date in order to give interested persons an opportunity to be heard.

Mr. Paul Benson, Urban Planner, said that in October of 1994 the City Council directed the staff to prepare a neighborhood plan for the "Chicken Hill" area. Since that time the staff, with the guidance of a ten person steering committee, has conducted a planning process for that area. As a result, a draft plan has been prepared and endorsed by the steering committee. If this plan is adopted, it would be an amendment to the City's comprehensive 2010 Plan.

During the planning process, a residents survey and six community meetings were held to obtain public input. The Planning & Zoning Commission held a public hearing on the plan on October 11, 1995.

The steering committee has endorsed the draft plan. The Planning staff recommended adoption. The Planning & Zoning Commission, by a vote

of 4 in favor, 2 opposed and 1 abstention, voted to recommend that the plan not be adopted.

At the worksession held on December 19, 1995, Councilman Skalski suggested that language in the plan be included that encouraged home ownership and the maintenance of those homes. For Council's consideration, Mr. Benson suggested the following language in Recommendation #4 of Goal #3 to read: "Ensure that any new programs encourage owner-occupancy and do not lead to displacement of existing residents or reduction in number of affordable housing units within the study area." This amendment is intended to promote a goal of owner-occupancy of residential units.

Before the public hearing on January 9, Mr. Jerry Sternberg had a suggestion and Mr. Benson felt the following language could be inserted between the first and second paragraphs of the Proposed Land Use section on page 22 to address his suggestion: "The six land use categories shown on the Future Land Use Map are not intended to represent specific zoning districts, but rather to indicate generalized types of land uses, and are defined as follows: Mixed Use - a wide range of development ranging from multi-family residential to heavy industrial; Commercial/Industrial - a wide range of commercial uses, as well as lower impact industrial uses; Commercial Services - a wide range of commercial activities; General Commercial - a more limited range of commercial uses focusing on retail sales and services; Parks/Recreation/ Institutional - as explained later, intended to promote the future use of the former Queen Carson School property as a community focal point; Residential - intended to limit use to residential and to preserve the predominantly single-family, higher density character of the neighborhood. The following section expands on the corresponding land development patterns planned for specific portions of the study area." This change is intended to clarify the intent of the land use categories used in the Proposed Land Use section narrative, and on the Proposed Land Use Map.

At the January 9 meeting, Mr. Sternberg then urged Council to delete the land starting at the Smokey Park Bridge extending south all the way to Lyman Street and bordered on the east by Roberts Street from the Plan. As a result of that request, Mr. Benson suggested Council amend the third paragraph in the Proposed Land Use section on page 22 as follows: "Since the riverfront area is emerging as a unique mixed-use district, a new zoning district that is tailored to the unique goals and needs of this area is recommended. This district should promote economic development and redevelopment of the land along the riverfront by allowing for a wide range of land uses and by permitting flexibility in mixing land uses, while protecting investment through appropriate development standards. This district should recognize and promote the potential economic and quality of life benefits of visual and physical accessibility to a revitalized riverfront. The specific standards of this district re beyond the scope of this plan, and intended to be developed at a future date as a zoning ordinance amendment." This change is intended to stress the economic advantages of the proposed river district, while not including specific reference to buffering, recreational development protection of the river ecosystem, responsible development with regard to historic and cultural resources or application of the district to the entire length of the French Broad and Swannanoa Rivers, as in the current text.

Council discussed whether the portion of property Mr. Sternberg requested to be deleted from the Plan should be, and if not, then why.

Ms. Jane Mathews, member of the Planning & Zoning Commission, recalled that there was not a whole lot of comment about the plan itself in the Commission meeting. There were some concerns raised about whether the whole river or portions of the river are looked at. She felt that no matter when the City does a comprehensive plan, we need to look at pieces of the plan for impacts that are unique to those areas. She felt that the effort will be to look at the whole river and its impact on the City and the County, but this area will have unique needs and characteristics that we need to address as well.

Ms. Jesse Smith Coleman hoped that some block grant funds will be set aside for senior citizens and citizens with low incomes who live in the area and who would like to upgrade their homes.

A man who represented Pioneer Welding Supply on Park Avenue, urged Council not to rezone Pioneer's property from Heavy Industrial because they would like to expand. Mr. Benson responded by saying that specific language has been added to the proposed land use section in the plan saying that even though the Pioneer's property is recommended to eventually become residential, that it was a 20+ year vision. The plan does not call for immediate down-zoning of the property and as it the plan currently stands, he felt that Pioneer's concerns have been addressed.

Ms. Heetderks, resident on Park Avenue, hoped Pioneer would not enlarge their business because it will cause additional traffic.

Ms. Gloria Howard Free said that after looking at the plan, the area residents see that it does have some merit. She urged Council to allow the residents in the area to have input into the plan. She suggested that the planning be open-ended for continual study and involvement of the community. The residents are very much concerned about the economic development implications in what is being proposed for the community. She asked that the Asheville Parks & Recreation storage facility on the corner of Clingman & Hilliard be removed. She stated that there were traffic problems in the area of Clingman Avenue and would like to see that traffic reduced. They asked for residents in the area to be informed of the demolition process and rehabilitation opportunities. They mentioned Rector Street being reopened. The community is interested in the City's funding resources for grading properties in the area. She asked for Council's guidance to help the community understand the MSD sewer charge on the water bill. She stated that they want their bills reduced and residents to be reimbursed retroactively.

Upon inquiry of Mayor Martin, Ms. Free said that a neighborhood association is being established in order to make sure that the neighborhood is properly served and represented as the planning process moves forward.

Councilman Worley explained that the MSD sewer charge on the water bill, that Ms. Free spoke about, is not something City Council has any authority over. MSD sets the rates and tells the City what to bill. The City only operates as their billing agent. Mayor Martin suggested that Ms. Free talk with the City Manager who will direct her to the appropriate staff to address her concerns.

When Councilman Hay asked Ms. Free if the residents in the community favored the plan, Ms. Free responded that personally she felt the plan was okay if it was left open for study and evolvement as people

become more involved in it. She said the community hasn't had as much in depth study into it as they would like, but if it benefits the community, the it was okay.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Hay moved for the adoption of Resolution No. 96-9, with the three amendments read by Mr. Benson to the Plan. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 89

B. CONTINUATION OF A PUBLIC HEARING RELATIVE TO REZONING TWO LOTS AT 401 OLD COUNTY HOME ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

Mayor Martin said that this public hearing was opened on January 9, 1996, and continued until this date in order to give the other interested persons an opportunity to speak and also to give the Planning staff an opportunity to look at the uniqueness of this area and perhaps bring Council a different solution to the problem.

At the request of Mr. Jones Byrd, attorney representing the petitioner, Councilman Worley moved to continue the public hearing, without further advertisement, until February 27, 1996, in order to give all parties concerned an opportunity to meet and perhaps come up with a compromise solution to the problem with some guidance from the Planning Department. This motion was seconded by Vice-Mayor Field and carried unanimously.

C. PUBLIC HEARING RELATIVE TO CLOSING AN UNNAMED ALLEY IN BETWEEN TWO UNNAMED ALLEYS CONNECTING WEST CHESTNUT STREET AND BLAKE STREET IN THE BLOCK BETWEEN MONTFORD AVENUE AND CUMBERLAND AVENUE

RESOLUTION NO. 96-10 - RESOLUTION TO CLOSE AN UNNAMED ALLEY IN BETWEEN TWO UNNAMED ALLEYS CONNECTING WEST CHESTNUT STREET AND BLAKE STREET IN THE BLOCK BETWEEN MONTFORD AVENUE AND CUMBERLAND AVENUE

Mayor Martin opened the public hearing at 5:52 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Larry Ward, Assistant Public Works Director, said that a petition has been received from Carolyn F. Spain and others requesting that an unnamed alley connecting two unnamed alleys between West Chestnut and Blake Street be permanently closed to public use.

The petition received includes the signatures of all property owners along the alley. The two alleys connecting Blake Street and West Chestnut Street are open alleys. The alley connecting these two alleys being petitioned to be closed is an unopened alley.

The Public Works Department staff recommends the petition to close be approved.

Mayor Martin closed the public hearing at 5:54 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 96-10. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 90

D. PUBLIC HEARING RELATIVE TO REZONING FIVE LOTS OFF DEAVERVIEW ROAD FROM R-3 RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

Mayor Martin opened the public hearing at 5:55 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this ordinance seeks to rezone lots 9628.10-26-6939, 8265, 8994 and 9628.10-37-3002 from R-3 Medium Density Residential to LI Light Industrial District (hereinafter "LI"). The subject property is approximately 25 acres. The five lots are located on Deaverview Road just west of the intersection of Bear Creek Road. The five lots contain eight residential structures. The 2010 Plan recommends that this area be low and medium density residential. The subject property is surrounded on all sides by residential.

The Planning staff reviewed the rezoning request and recommended denial of the rezoning of all five lots to LI. At the Planning & Zoning Commission's meeting on November 1, 1995, the Commission voted 4-3 to recommend denial of the rezoning request.

An appeal from the Planning & Zoning Commission's decision was filed on November 10, 1995.

A protest petition was filed on January 17, 1996, and said petition has been verified as a valid protest petition on the north and south side of the property. On January 23, 1996, a letter was received in the Planning Department signed by six people asking to "withdraw my name from the petition that I signed on December 11, 1995, opposing the rezoning of the property owned by Mr. James R. Beck on Deaverview Road, West Asheville, North Carolina. After reviewing all the facts regarding the rezoning, I believe it will be in the best interest of the community to rezone this property as requested by Mr. Beck." The Planning staff then reviewed the protest petition again and found that one of the names that requested deletion was within in the protest petition area and thus invalidated the north area as being part of the protest petition. However, the south area still remained valid resulting in a valid protest petition.

Mr. Robert Long, attorney for Deaverview properties, pointed out to Council, by use of a map, where the subject property lies in connection with other properties in the neighborhood zoned LI. He noted that the property is currently zoned R-3 which allows multi-family housing up to 16 units per acre. He cited the utilities that were available, i.e., a 6" water line, natural gas and public transportation. Sewer is also available on Cub Road, although depending on the use of this property if it was to be upgraded, and any upgrade would have to be done at the property owner's expense. He said that at the Planning & Zoning Commission meeting, Mr. Ownbey said that the City Engineer

commented that LI would place less of a burden on the road structure than apartments would. He believed LI is generally compatible with the neighborhood. He also stated that Mr. Ray Denny from the N.C. Dept. of Commerce stated that there is a need for LI sites in Asheville and the vicinity. He presented two letters (one from Mr. Charles Freeman and the other from Clyde and Geneva Travis) stating that they had no objection to the property being rezoned to LI. He understood that a petition in support of the rezoning to LI was given to the Planning Department signed by some people on Cub Road. He said that they have a civil engineering consultant who states that this site could be could be developed with minimal disruption in terms of earth moving, etc. For these reasons, he asked Council to consider rezoning this property to LI. He felt that the feeling of the neighbors are that the type of facility that would go into a LI site would be a lot less disruptive than more apartments (which are allowed in the current R-3 designation). He also noted that he obtained the police call records for 275 Deaverview Road, for a specific time period, and there were many, many calls for police assistance which he felt would not happen if the area was rezoned to LI.

Upon inquiry of Vice-Mayor Field, Mr. Long said that this subject tract of land can be developed for apartments under the current R-3 designation (with 16 units per acre). That would be a big disruption on the community and the petitioner does not want to cause that much disruption.

When Councilman Skalski inquired about whether there have been any neighborhood meetings, Mr. Long responded that the petitioner and his engineer did meet with some neighborhood residents.

Councilman Skalski then noted that Council is faced with two issues: one is, do the people that live around the property want it and can it be made so that everyone can live together; the other being, the City needs to consider the overall zoning for the area contained in the 2010 Plan. Mr. Long responded that he firmly believes that LI would impact the area less than more apartments, in terms of schools, water usage, sewerage and traffic.

Mr. Ronnie Radford, 41 Cub Road, spoke in opposition of the rezoning, stating that the residents in the area keep hearing that LI is better than apartments. He said that the R-3 designation doesn't mandate that apartments be built. He said that the area did have a community meeting and most opposed the rezoning to LI. However, some have changed their minds because of the threat of apartments being built there. He said that at the meeting the residents kept hearing that an office warehouse would be built, but LI zoning has a lot of uses. Most of the residents whose properties border the subject land are opposed to the rezoning. He stressed that the 2010 Plan does call for the area to remain residential and this property is currently surrounded by residential. He felt like the noise (from burglar alarms) and crime factors will disrupt the quiet neighborhood and urged Council to keep the property zoned residential.

Ms. Sherrie Cook, 356 Deaverview Road, spoke in opposition to the rezoning noting that there are many things that can be placed in the LI zone. She alleged that two letters in support of the rezoning that Mr. Long has are from tenants, not property owners.

Mr. Webb Morgan, 333 Hi Alta Avenue, felt that if Mr. Beck wants to build an office warehouse in the area on his property, he should be allowed to do that.

Ms. Susan Wallace, 91 Cub Road, was very much opposed to the rezoning. She urged Council to leave the area residential nothing that they prefer homes in the area.

Ms. Kathryn Wiggins, area resident, spoke in opposition of the rezoning. She also presented Council with a letter from Barbara D. Wells, property owner of 49 Cub Road, who expressed her opposition of rezoning this land to LI.

Mr. Carl Chesick, 66 Cedar Hill Road, spoke in support of the rezoning to LI. He said that there is an unoccupied strip of land that is completely covered in laurel which is a natural buffer zone between area residents and the subject property. He said that there is a petition in favor of the rezoning which was turned into the Planning Department today, and he wasn't sure if the people who signed the protest petition even knew what they were signing. He felt that residential zoning which allows 16 units per acre is not medium to low density. He said that unless Council can guarantee that no housing apartments would be built in there, they feel the LI zoning would be the best thing for the community. He presented Council with a memorandum to the residents of Cub Road dated January 22, 1996, from Mr. James B. Beck, General Partner of Deaverview Properties, which reads: "In the event the above parcels of Deaverview Properties is rezoned to light industrial district, Deaverview Properties, a North Carolina General Partnership, agrees with the residents of Cub Road, as follows: (1) That a chain link fence will be installed between the properties on Cub Road and any facility built or constructed on the above property. (2) That a 50-foot buffer zone will be established between the properties adjoining the subject property and adjoining properties on Cub Road. (3) That no night club or liquor store will be established on said property. (4) That upon the erection of structures complying with light industrial district, private security will be maintained on the property."

Upon inquiry of Vice-Mayor Field about if the protest petition is valid, City Attorney Slawter said that it has been determined that it is a valid protest petition.

Ms. Linda Lunsford Davis, 71 Cub Road, said that she signed the protest petition thinking that it was asking that the property be rezoned R-1A. She is one of the people who has asked that her name be removed from the protest petition. She now feels the property should be rezoned LI and has signed the "in favor of rezoning" petition. She stressed that the residents do not want a housing development on that property.

Upon inquiry of Councilman Sellers, Mr. James Beck, petitioner, said that he has agreed to put a security fence around the property and build a 50 foot buffer (where the zoning requirements only require a 20 foot buffer). He said that residential houses would be a bigger impact on the community than an office warehouse.

City Attorney Slawter reminded Council that when they are considering a rezoning, they have to look at every possible use that the property can be used for under that particular zone. If this is going to be rezoned light industrial, Council cannot rezone the property on the condition that it be used for a specific use. That's called contract zoning and is not legal in North Carolina. He reiterated that anything in the LI zone can be built on that property. At this time, Vice-Mayor Field read out all the possible uses that would be allowed in the LI district.

Upon inquiry of Councilman Sellers, Mr. Beck described the topography of the land. Mr. Beck then urged Council to rezone his property so he could build a nice office warehouse which would have setback and shrubbery. He felt that unless he rezones his property to LI, apartments will go in there. He stated that he doesn't want to sell his property but keep it for his own use.

Upon inquiry of Ms. Leni Sitnick, Mr. Beck described what an office warehouse would look like.

Ms. Jane Mathews, member of the Planning & Zoning Commission, attempted to explain the vote of the Planning & Zoning Commission. She ended by saying that maybe R-3 is not appropriate, but also it has some opportunities for other types of development other, not just necessarily a maximum density of 16 units per acre. It could have less density but still be in character with the surrounding area.

Mr. Beck stated that he bought the land, cleaned it up and wants to do something right with it. He said that if it has to come to it, apartments will go in. He stressed that LI would have the least impact on the community.

Upon inquiry of Vice-Mayor Field about why staff recommended denial, Mr. Ownbey said that the 2010 Plan recommends that this area be low and medium density residential, that the area is surrounded by residential on all sides, and the addition of truck traffic.

Upon inquiry of Councilman Worley, City Attorney Slawter said that it was his opinion that this would not be considered spot zoning.

Ms. King spoke in support of the rezoning and said that she knew Mr. Beck and felt he would not building anything on the property that would be detrimental to the neighborhood.

Mr. Frank McCurry, resident of Cub Road, spoke in opposition to the property being rezoned and said that whatever goes in there, he doesn't want a trailer park.

Mr. Terry Sprouse, area property owner, spoke in favor of the rezoning. He felt the LI zone would be a benefit to the community. He remembered the property before Mr. Beck bought it and felt that Mr. Beck made vast improvements. He was not opposed to apartments, but felt less people will be less impact on the community.

Mr. Glen Mchaffey, 63 Cub Road, supported the rezoning saying that he would prefer a warehouse be built on the property than housing apartments. Even though conditions cannot be placed on the rezoning, he felt Mr. Beck is a man of his word and would not hurt the neighborhood.

Ms. Harriette Winner, member of the Planning & Zoning Commission, said that even though Mr. Beck has good honest plans, for some reason he may need or want to sell the land and then anything can be built in the LI zone. She thought that maybe someone might develop the property into a community of houses.

Mayor Martin closed the public hearing at 7:02 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Skalski moved to deny the rezoning request from R-3 to LI. This motion was seconded by Councilman Cloninger. On a roll call vote of 6-1, with Councilman Sellers voting "no", the motion carried.

Councilman Skalski explained his motion to deny was based on (1) the owner can meet with the residents and come to an agreement within the year; (2) people were comfortable with the R-3 zoning when they bought their land, built their homes and started businesses in the area; and (3) there was no reason that Council should not follow the 2010 Plan guidelines.

Councilman Hay felt that as he sees it, Council was not forced to choose between LI and 400 units. If a proposal comes up to build 400 units, problems with traffic, sewerage and schools would be addressed at that time. The area may not be appropriate for the building of those units.

E. PUBLIC HEARING TO CONSIDER A VARIANCE REQUEST FOR COURTYARD OF ASHEVILLE TO REDUCE THE SIDE BUILDING SETBACK REQUIREMENT FROM 8 FEET TO 5.58 FEET

Mayor Martin opened the public hearing at 7:07 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Councilman Cloninger felt that he might have a conflict of interest due to his firm doing legal work for Courtyard of Asheville. Councilman Worley moved to excuse Councilman Cloninger from voting due to a conflict of interest. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mr. Gerald Green, Senior Planner, said that Courtyard of Asheville is requesting a variance from the side building setback requirement. On March 8, 1995, Courtyard of Asheville received their group development approval for a 78 room hotel located on Buckstone Place. Some changes were made to the configuration of the building on the property which resulted in the foundation being poured too close to the southeast property line. The zoning ordinance requires an 8 foot side building setback. The foundation was poured 5.58 feet from the side property line. The request is for a variance of 2.42 feet.

At their January 3, 1996, meeting, the Planning & Zoning Commission voted unanimously to recommend approval of the variance request.

Mr. George Jensen, engineer, explained the reason the variance is necessary.

Mayor Martin closed the public hearing at 7:16 p.m.

Councilman Hay moved to approve the variance request for Courtyard of Asheville to reduce the side building setback requirement from 8 feet to 5.58 feet. This motion was seconded by Councilman Skalski and carried unanimously.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR BLUEBIRD KNOLL SUBDIVISION

Mr. Gerald Green, Senior Planner, said that Ken Lawson, developer of Bluebird Knoll Subdivision, is requesting final plat approval for a nine lot subdivision to be located off Eliada Home Road.

Bluebird Knoll is proposed as a nine lot single family subdivision on 8.78 acres. The proposed subdivision is located outside the City limits in the area of extraterritorial jurisdiction. Individual wells and septic systems will serve the lots. As part of the subdivision's development, a new street will be constructed. Lawson Lane will be approximately 820 feet in length and will have a maximum grade of 11.6%. The street will be constructed to N.C. Dept. of Transportation standards and will be dedicated to the State for maintenance as a public street. At their January 9, 1996, meeting, City Council granted a variance permitting the street to have a right-of-way width of 45 feet. The final plat has been reviewed and approved by the Legal, Public Works and Planning Departments and complies with all standards established by the City.

The Planning & Zoning Commission reviewed the preliminary plat on December 6, 1995, and unanimously approved the preliminary plat. The Planning staff recommends acceptance of the final plat.

Councilman Worley moved for the approval of the final plat for Bluebird Knoll Subdivision. This motion was seconded by Councilman Sellers and carried unanimously.

V. CONSENT:

Upon the request of Mayor Martin, Item B., resolution directing the Planning & Development Department to prepare a special zoning study of the Haw Creek area, was removed from the consent agenda to be discussed individually.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 9, 1996, AND THE WORKSESSION HELD ON JANUARY 16, 1996

B. RESOLUTION DIRECTING THE PLANNING & DEVELOPMENT DEPARTMENT TO PREPARE A SPECIAL ZONING STUDY OF THE HAW CREEK COMMUNITY

This item was pulled to be discussed individually.

C. RESOLUTION NO. 96-11 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 30 (LOT AT THE CORNER OF CURVE STREET AND ALEXANDER DRIVE) OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA

Summary: Disposal Parcel 30 is a residential lot at the corner of Curve Street and Alexander Drive comprising 10,672 square feet.

A bid from Anthony J. Tozzi, in the amount of $6,210 was received for the purchase of Disposal Parcel 30 in the East End/Valley Street Community Improvement Area in an amount not less than the established minimum price of $6,100.

The bid from Anthony J. Tozzi for Disposal Parcel 30 includes the proposal to build a duplex, with each unit containing 3 bedrooms and 1-1/2 baths for his personal residence and rental at an anticipated cost

of $107,340. Mr. Tozzi has applied for the Incentive Housing Program ($1 lot) subsidy.

An upset bid was received by Charles D. Martin in the amount of $7,000. The bid from Mr. Martin for Disposal Parcel 30 includes the proposal to build a residential structure containing three bedrooms and two baths for his personal residence at an anticipated cost of $72,000. Mr. Martin has placed the required deposit. Mr. Martin has applied for the Incentive Housing Program ($1 lot) subsidy.

An upset bid was received by Anthony J. Tozzi in the amount of $8,500. Then, an upset bid was received by Charles Martin in the amount of $9,000. No response was received to the last advertisement of January 5, 1996, and therefore, the offer to purchase from Charles Martin in the amount of $9,000 was not upset and the sale to Charles Martin should be approved. Mr. Martin will be eligible for the Incentive Housing Program subsidy in the amount of $6,099.

RESOLUTION BOOK NO. 23 - PAGE 91

D. RESOLUTION NO. 96-12 - RESOLUTION AUTHORIZING THE MAYOR TO SUBMIT A LETTER TO THE BUNCOMBE COUNTY ECONOMIC DEVELOPMENT COMMITTEE AND TO ADVANTAGE WEST ENDORSING THE GRANT REQUESTS OF RIVERLINK

Summary: Recently RiverLink received a $15,000 grant from the Tennessee Valley Authority towards a $60,000 goal to be used to develop a master plan, economic impact analysis, and anchor project for the area between the I-240 Bridge and the corner of Depot Street, Riverside Drive and Lyman Street. RiverLink has spoke with both the Buncombe County Economic Development Commission and Advantage West about matching funds. They are asking for $22,500 from each agency. RiverLink is requesting that the City submit letters to the Buncombe County Economic Development Commission and Advantage West endorsing the RiverLink funding requests.

RESOLUTION BOOK NO. 23 - PAGE 92

E. RESOLUTION NO. 96-13 - RESOLUTION AUTHORIZING A NAME CHANGE FOR THE WEST ASHEVILLE/HAYWOOD STREET BRIDGE TO BE NAMED THE WEST ASHEVILLE/RIVERLINK BRIDGE

Summary: RiverLink has an interest in seeing the West Asheville/Haywood Road Bridge renamed the West Asheville/RiverLink Bridge. This bridge is the critical link between the downtown and the heart of West Asheville commercial business district. RiverLink sees the bridge serving a the symbol for the river redevelopment project.

Procedurally the name change, if requested by the City, must go to our Board of Transportation member, Gordon Myers. Mr. Myers will then pass the request on to the full Board of Transportation in Raleigh which will act on our request.

The West Asheville Business Association and the West Asheville Steering Committee have both been apprised of this request. Their only concern is that "West Asheville" remain in the name.

RESOLUTION BOOK NO. 23 - PAGE 93

F. **RESOLUTION NO. 96-14 - RESOLUTION DECLARING THE INTENT OF THE CITY TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN IMPROVEMENTS TO THE WATER SYSTEM OF THE CITY OF ASHEVILLE**

Summary: The City is in the process of preparing for the issuance of Water Revenue Bonds. This resolution is required by the internal Revenue Service if the City wishes to reimburse itself for any expenditures incurred prior to the date of closing on the bonds.

RESOLUTION BOOK NO. 23 - PAGE 95

G. **RESOLUTION NO. 96-15 - RESOLUTION TO ESTABLISH A DESIGN REVIEW BOARD FOR THE HEAD OF MONTFORD, EAST END/VALLEY STREET AND EAST RIVERSIDE REDEVELOPMENT PROJECTS**

Summary: The redevelopment plans for the Head of Montford Redevelopment Project, East End/Valley Street Community Improvement Program and East Riverside Redevelopment Project provide for a Design Review Board to review each developer's plans and to advise on such matters as: adequacy of off-street loading, adequacy of off-street parking, provisions for open space, appropriate and densities, landscaping, provisions for aesthetic objects, group development, harmony of design, quality of design, and compliance with historic preservation guidelines and other provisions of the Redevelopment Plan.

The composition of the Design Review Board under the redevelopment plans included: the Housing Authority Executive Director, the City Planning & Development Director, the City Planning & Zoning Commission Chairman and two architects to be appointed by the Housing Authority. Since the responsibility for redevelopment property now rests with the City of Asheville, the Community Development Director should replace the Housing Authority Executive Director on the Design Review Board and the City Director of Planning & Development should be authorized to appoint two architects as needed to serve on the Design Review Board.

RESOLUTION BOOK NO. 23 - PAGE 97

H. **RESOLUTION NO. 96-16 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE TRANSIT AUTHORITY**

Summary: The term of Paul Hensley has expired. This resolution will appoint Jim McCulley to serve a four year term, term to expire December 31, 1999, or until his successor has been appointed.

RESOLUTION BOOK NO. 23 - PAGE 98

Mayor Martin said that members of Council have been previously furnished with copies of the items on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Skalski and carried unanimously.

Ordinances:

A. **ORDINANCE NO. 2255 - BUDGET AMENDMENT TO SET UP AN APPROPRIATION FOR THE CRIME ANALYSIS MAPPING PROJECT**

Summary: This budget amendment, in the amount of $31,753, is to set up an appropriation to fund project costs associated with the Police Department's N.C. Dept. of Crime Control & Public Safety grant funded community policing program.

ORDINANCE BOOK NO. 15 - PAGE 263

B. ORDINANCE NO. 2256 - BUDGET AMENDMENT FOR THE CITY'S SHARE IN THE ACQUISITION OF A MOBILE ARSON RESPONSE UNIT

Summary: In 1992, the City of Asheville and Buncombe County created the A-B Arson Task Force ("ABATF") as a join-exercise-of-powers agency. Since that time, ABATF has been an extremely successful example of effective City-County cooperation. Its success rate in determining fire cause is very high, as is its arrest/conviction rate. ABATF has been cited nationally by the U.S. Fire Administration as a model cooperative effort to combat arson.

For the past two years, members of the ABATF Board of Directors have worked to raise the estimated $40,000 needed to acquire and mobile an arson investigation field unit. Approximately 75% of the needed funds - $30,000 - are in hand.

The ABATF has adopted a resolution requesting support from the City and County in the form of $5,000 from each, to allow ABATF to proceed with the acquisition of this mobile arson response unit.

ORDINANCE BOOK NO. 15 - PAGE 265

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first reading.

ITEM PULLED FROM THE CONSENT AGENDA

RESOLUTION NO. 96-17 - RESOLUTION INITIATING A ZONING AMENDMENT FOR THAT PORTION OF THE HAW CREEK AREA CURRENTLY ZONED R-3 (MEDIUM DENSITY RESIDENTIAL)

Ms. Julia Cogburn, Planning & Development Director, said that a petition has been submitted asking the City to consider rezoning 313 parcels in the Haw Creek section of the City from R-3 to R-2.

The petition meets the requirements of Section 30-11-1 (c) of the zoning ordinance. This section provides that "any group of individual property owners who compromise a minimum of 51% of the property owners in the area and who own at least 51% of the property located within the area to be considered ... may request that the City Council consider initiating a special zoning study to determine if a change in the development plan for the area in question is warranted." Staff has reviewed a petition for the rezoning of over 246 acres of the Haw Creek neighborhood from R-3 Medium Density Residential to R-2 Low Density Residential, submitted by Mr. Chris Pelly, President of the Haw Creek Homeowners Association. Staff has reviewed the signatures on the petition and has determined that it contains signatures of 51% of the

property owners who combined acreage comprises 51% of the total acreage located within the area proposed for rezoning. Therefore, the petition is valid.

Ms. Cogburn said that in working with the area and in working with the neighborhood, they found that certain areas were omitted that are currently zoned R-3 from the study. Therefore, Planning proposes that a new resolution be considered that studies the entire area for rezoning. She said the Planning staff will study the entire area zoned R-3 in the Haw Creek area and that they take a recommendation to the Planning & Zoning Commission at their March meeting, if Council so desires.

Mr. Chris Pelly stated that the neighborhood is supportive of the expanded study.

Mayor Martin said that members of Council have been furnished with a copy of the resolution and it will not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 96-17. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 99

VI. OTHER BUSINESS:

A. RESOLUTION NO. 96-18 - RESOLUTION APPOINTING MEMBERS TO THE CITIZENS/POLICE ADVISORY COMMITTEE

City Clerk Burleson read the resolution to appoint Richard Rice to the Citizens/Police Advisory Committee to serve the unexpired term of Councilman Tommy Sellers, term to expire May 1, 1996, and then to serve a full two year term, term to expire May 1, 1998, or until his successor has been appointed. The resolution will also appoint Councilman Tommy Sellers to serve as the non-voting Councilmember.

Councilman Worley moved for the adoption of Resolution No. 96-18. This motion was seconded by Councilman Cloninger and carried unanimously.

RESOLUTION BOOK NO. 23 - 100

B. RESOLUTION NO. 96-19 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

City Clerk Burleson read the resolution to (1) reappoint Bernadette Thompson to serve an additional three year term, term to expire December 31, 1998; (2) appoint Cassandra Ingram to serve a three year term, term to expire December 31, 1998; (3) appoint Kathryn Liss to serve the unexpired term of Carol Fabrey, term to expire December 31, 1996; (4) appoint Cynthia Janes to serve the unexpired term of Andrew Gentry, term to expire December 31, 1996; and (5) appoint Leslie Daugherty to serve the unexpired term of Diane Westmoreland, term to expire December 31, 1997. All terms are until their successors have been appointed.

Councilman Hay moved for the adoption of Resolution No. 96-19. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - 101

C. COMMENTS BY LENI SITNICK REGARDING NUCLEAR WASTE TRANSPORTATION AND THE EXTRATERRITORIAL JURISDICTION AREA (ETJ)

Ms. Leni Sitnick appreciated employees of the Water Resources Department who came out to fix a sink hole on the corner of her property on Gertrude Place. The employees came out and worked in the freezing cold mud and repaired the damage quickly and efficiently.

Ms. Sitnick then said that on December 12 she presented to Council for their consideration a resolution to oppose Federal House Resolution 1020 regarding the transport of nuclear waste through Asheville and the area. At that time members of Council asked for additional time to become acquainted with the subject and to consider it further. For that purpose, she introduced a map entitled "The Nuclear Weapons Complex Transportation Routes" that she thought would help the Council in their decision. Looking at the map, it is clear that North Carolina and South Carolina are the "meat in the east coast's nuclear sandwich". Council can see by this map that there is grave importance in considering every community taking a stand against the incredible nuclear dilemma that we are facing. She urged Council to review the map to see how it impacts us specifically. She noted that the routes represent truck and rail transportation of nuclear materials among the primary nuclear weapons production facilities, laboratories, and waste sites. She hoped that this information will help the Council in their consideration of the resolution.

Ms. Sitnick said that with regard to the ETJ area issue of (1) whether or not the ETJ should be continued, (2) whether or not it was fair for the Asheville taxpayer to pay our Planning Department to do all the work involved in the ETJ area; and (3) how that impacted the County appointees on Planning & Zoning Commission making decisions outside of the ETJ area, she brought to Council's attention that it may be unfair to County residents to have part of their property controlled by the City. She felt the whole issue of ETJ is something that is not only going to affect revisions of the 2010 Plan and its mapping process, but also the work being done for the Unified Development Ordinance. She urged Council to consider the balance for both the Asheville taxpayer and the County taxpayer.

D. CLAIMS

The following claims were received by the City of Asheville during the week of January 5-11, 1996: Gary Dale Helton (Parks & Recreation), David Foster (Streets), Larry McAdams (Streets) and Johnny Buckner (Civic Center).

The following claims have been received during the week of January 12-18, 1996: John Southern (Streets) and Penny Brown (Streets).

These claims have been referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:30 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Thursday - January 25, 1996 - 5:00 p.m.
5th Floor Conference Room - City Hall

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; Assistant City Attorney Patsy Brison

Absent: Councilman Thomas G. Sellers

UNIFIED DEVELOPMENT ORDINANCE ("UDO") UPDATE

City Council was updated by the Planning & Development Department on the following items with regard to the UDO: (1) what the UDO is and is not; (2) chronology of UDO development; (3) description of proposed use districts; (4) policy issues to be decided by City Council; (5) schedule for mapping use districts; (5) Steering Committee recommendations; and (6) remaining tasks to complete the UDO.

Magdalene Davidson
CITY CLERK

MAYOR

Friday - February 2, 1996 - 1:30 p.m.
Kanuga Conference Center, Hendersonville, NC
Room 623 - City Hall Building, Asheville, NC

City Council Retreat

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Friday, February 2, 1996 - Kanuga Conference Center - 1:30 p.m.

Each department reviewed their department issues with Council.

City Council then heard a report from Police Chief Will Annarino on the police community resource centers. After a lengthy discussion of both the philosophy and current practices concerning community resource centers, Council decided on the following strategy: (a) The Police Department will continue to work with any community that would like to establish a resource center. Currently, Oakley has shown the most interest; therefore, we are concentrating in that area. At the appropriate time during the organizational process, the Police Department will ask Council to participate in a community meeting in Oakley to discuss their role, and the City's role, in the service center; and (b) Staff will work with the committee formed by Council (consisting of Councilmen Sellers, Skalski and Worley) in helping communities wishing to set up resource centers or making improvements at existing centers.

After a presentation from Terry Summey, Director of Building Safety, on what community oriented government could be, Council approved the concept. During the budget process, staff will bring forward a multi-year plan for implementing community oriented government. The implementation plan will identify any personnel, programs and resources needed.

Saturday, February 3, 1996 - Kanuga Conference Center - 8:30 a.m.

Due to weather conditions causing a power outage, it was the consensus of Council to continue the retreat on Sunday, February 4, 1996, in Room 623 of the City Hall Building in Asheville, N.C.

Sunday, February 4, 1996 - Room 623, City Hall - 9:00 a.m.

Parks & Recreation Director Irby Brinson briefed Council concerning all the needs of the Parks and Recreation Department. After some discussion, Council decided the following on specific projects: A. Lake Craig Property - Staff and Council will continue to pursue working on the Lake Craig property with the idea that it will probably become exclusively a soccer area. Staff will continue to work on private funding, as well as County government funding, to support the purchase and development of any property needed. B. Richmond Hill property - Council agreed to have staff prepare a request for proposal to send to developers, which would include items such as the need for a minimum 30-acre park and trails throughout the area. Council will review the RFP prior to moving forward with the project. C. Haw Creek Park - Staff will continue to pursue the acquisition or donation of property in the Haw Creek area for a park, and will work with the community to that end.

D. Stephens-Lee Center - Council gave this a high priority with a condition that there by a buy-in from the community.

After a presentation and discussion with Public Works Director Mark Combs on recycling, staff was given the following directions: (a) Staff will work with the Recycling Committee to issue an RFP to determine what the costs would be to implement a program within the City. Once the proposals are returned from the vendors, staff will evaluate the proposals with regard to which would be the best and most cost-effective system; (b) In terms of financing the recycling program, Councilman Sellers moved to have the additional costs shared, on a equal basis, between the citizens and the City. This motion was seconded by Councilman Sellers and carried on a 4-3 vote, with Vice-Mayor Field and Councilmen Hay and Skalski voting "no". The opposing votes were not against a recycling program, but their feelings were that this is a tax and the City should pay it out of General Fund; (c) the results of the RFP, the type of system and the final cost will be put into the budget process for discussion by Council.

Consensus of Council to continue the goal setting process after Council's worksession on February 6, 1996, and the legislative issues to be reviewed during their worksession on February 20, 1996.

Mayor Martin adjourned the meeting at 2:00 p.m.

Tuesday, February 6, 1996 - City Council Goals and Objectives - 5:00 p.m., Room 623 - City Hall Building

The following are 11 top goals arrived at by City Council: (1) Complete and adopt the Unified Development Ordinance (staff work completed by 12/31/96 and public review and adoption by 6/30/97); (2) Adopt and support "community oriented government; (3) Encourage and support police/community resource centers; (4) Address planning for and funding of City facilities/projects/needs; (5) Parks long range plan priorities; (6) Proceed with enforcement of the sign ordinance; (7) Maintain or improve the City's financial strength; (8) Encourage and support City employee relations; (9) Adopt and begin a phased residential solid waste recycling program after July 1, 1996; (10) Work toward addressing City School educational performance disparities with the use of a task force; (11) Seek improved City/County/regional cooperation; and (12) Provide leadership in pursuit of the Asheville-Buncombe Vision, the City's 2010 Plan, the Bicentennial Celebration, and seek the All American City designation. These top eleven goals were arrived at after 55 smaller topics were introduced and combined.

Tuesday, February 20, 1996 - Legislative Issues - 2:00 p.m., Room 623 - City Hall Building

City Attorney Slawter said that the 1996 legislative session convenes on May 13, 1996, and is scheduled to adjourn on June 21, 1996. The deadline for submitting local bills to legislative drafting is May 22, 1996, and the deadline for introduction of local bills in either chamber is May 29, 1996.

He then summarized the City's 1995 legislative program stating that the following three issues were approved: (1) authorization for use of "Denver Boot"; (2) authorization for a process, to be used in connection with the demolition of dilapidated structures, whereby notice is given only once to owners and other parties in interest; and (3) same authority as other cities have to collect their own ad valorem taxes (instead of being required to have the county collect them). He then reviewed the four items that were not approved by the legislature.

He noted that if HB 220 (Outdoor Advertising/Just Compensation) is enacted, this bill would require a local government unit to make monetary payments to billboard owners if the unit passes a sign ordinance requiring nonconforming billboards and signs to be phased out over a period of time.

He briefed Council on three primary areas of concern that may come up in the 1996 legislative session coming from study commissions: (1) Extraterritorial Jurisdiction -- this includes such issues as permitting residents of a city's extraterritorial planning jurisdiction to vote in city council elections. It also includes prohibiting a city from extending its extraterritorial jurisdiction into a county other than the one containing its primary land area; (2) Annexation -- This topic includes the possibility of all sorts of limitations on cities' annexation authority, such as a return to the pre-1959 standards that required referenda, or a requirement that a jury trial be held if requested by a petitioner challenging an annexation; and (3) Attorney Fees in Condemnation Cases -- This would require units of government to pay the attorney fees of the defendant in a court action for condemnation of property.

He said that the only specific request for local legislation that he has received at this point from staff is a request from Terry Summey that the Council seek an amendment to G.S. 87-14, so as to exempt Asheville from the requirement that before issuing a building permit to a contractor, the building inspector must verify that the contractor has paid the license tax required by the State Revenue Act and has workers' compensation insurance in effect.

He stated that he has received a request from the A-B Community Relations Council asking to be designated as a EEOC agency. This designation would allow them to have the same powers as the federal agency in Charlotte on a local level. In becoming a designated EEOC agency, they would be compensated for cases they investigate. Currently the compensation is $500 per case. They feel this compensation would enable them to stabilize their funding and decrease their dependency on the City and the County. They feel that in seeking this designation, the Community Relations Council can perform a greater service to the City and the County. City Attorney Slawter was concerned about the legal staff support necessary. It was the consensus of Council to (1) find out if the Buncombe County Commissioners have taken any action on this request, (2) contact other cities and counties to see how this has worked for them; and (3) attempt to get input from businesses on whether they feel a local EEOC agency might cause more complaints due to it being local.

City Attorney Slawter also said that he had recently received a letter from Wally Bowen regarding campaign finance reform. Mr. Bowen suggested that the City offer incentives to candidates who voluntarily reform, although Mr. Slawter was not aware of any legal authority for such incentives.

Councilman Skalski asked that we ask our local delegation to pursue some basic issues that come up, like term limits. He suggested limiting campaign spending and also raising Council salaries every two years in order to give people more access to serve on Council.

Vice-Mayor Field spoke in opposition to term limits. She suggested the City wait and see what the legislature does on campaign financing and then Asheville can respond.

Mr. Calvin Allen, representing the Committee for Campaign Finance Reform, asked Council to adopt a resolution urging the WNC legislative

delegation to make campaign finance reform a priority in 1996, and to increase pay for Council members.

Vice-Mayor Field felt that campaign finance reform was not a priority for her. She felt that issues like education and crime would be a higher priority for the delegation to consider. She did, however, support Council's looking into a pay increase for future Councils, but that is something that the Council can do itself -- it doesn't have to ask the legislature. She suggested this item be brought up during budget deliberations.

City Attorney Slawter then reviewed with Council a memorandum related to changes that the Council may make itself in the form of government of the City.

When Councilman Hay asked if the present Council could change the method of election of City Council in 1997, City Attorney Slawter said that G.S. 160A-107 provides that amendments to the City Charter related to the method of election of Council members adopted pursuant to G.S. 160A-101, et seq. "shall continue in force for at least two years after the beginning of the term of office of the officers elected thereunder." The current Council was elected under the "nonpartisan primary and election" method authorized by G.S. 163-294, in accordance with Ordinance No. 2155 dated November 15, 1994, which so amended the City Charter. The current Council is the first Council elected pursuant to that method of election. Since the "beginning of the term of office" of the current Council was on December 5, 1995, it was his opinion that the current "nonpartisan primary and election" method of election of Council members must remain in place until at least December 5, 1997. Any desire on the part of the Council to change either to partisan elections or to another form of nonpartisan elections could thus not be accomplished by the Council in time to be effective for the 1997 election. The earliest election for which such a change could occur would be the 1999 City Council election.

Councilman Skalski presented a resolution for the NC Housing Trust Fund which encourages the local delegation to re-fund this trust fund in the amount of $2.5 Million. He asked that this be brought back to the Council in the legislative package.

It was the consensus of Council to have the City Attorney prepare a draft legislative package to bring back to Council consisting of the following proposals:

1. Same authority as other cities have to designate downtown area within which development projects may take place in accordance with G.S. 160A-458.3.

2. Exempt Asheville from the requirement that before issuing a building permit to a contractor, the building inspector must verify that the contractor has paid the license tax required by the State Revenue Act and has workers' compensation insurance in effect.

3. Authorization for increase in annual motor vehicle tax (currently $5) to up to $10.

4. Resolution urging the WNC legislative delegation to make campaign finance reform a priority in 1996.

5. Request from the A-B Community Relations Council to become a designated EEOC agency.

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6. Resolution for the NC Housing Trust Fund which encourages the local delegation to re-fund this trust fund in the amount of $2.5 Million.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - February 6, 1996 - 2:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

OUTWARD BOUND

Ms. Mary Decker, Professional Development Program Director for Outward Bound Professional Development, explained that Outward Bound is the kind of program that really challenges and strengthens a team. When working with corporate clients they do not pull a preset itinerary off the shelf and offer it to each client. They work with each group to determine the unique needs, situation and challenges facing the team. Using this information, they interactively design a program that impels participants into improved interpersonal and organizational dynamics.

She then shared some of the services that Outward Bound provides and invited Council to visit their base camp near Tablerock to experience for themselves the power of Outward Bound.

Mayor Martin thanked Ms. Decker for briefing the Council.

PRESENTATION BY THE WATER RESOURCES DEPARTMENT LX TEAM - "THE CLEAN WATER ACT" FROM THE WATER MAINTENANCE DIVISION

Mr. Mike Holcombe, Water Resources Director, said that in the spring of 1993, the Water Maintenance Division of the Water Resources Department formed an LX team called the "Clean Water Act." Team members include Lane Roberts (co-team leader), Billy Gevedon (co-team leader), Steve Rice, John W. Collins, Dennis Morgan and Aairon Calloway. They were the first team in the City of Asheville to complete the seven step LX process. Team members successfully used the LX process to resolve a long-standing problem that left customers without water for extended periods while repairs and maintenance tasks were completed. This problem was identified and corrected by stocking commonly used repair parts on service vehicles.

The "Clean Water Act" presented their problem solving achievements to Council to demonstrate that the person closest to the situation can best resolve problems. LX can empower employees to improve customer services and increase customer satisfaction. This presentation shows the positive benefits and results of the City's LX continuous improvement process in resolving problems.

Mayor Martin, on behalf of the City Council, thanked the team members for their outstanding work.

OPTION TO PURCHASE MURRAY HILL PARK PROPERTY

Mr. Ed Vess, Field Services Coordinator, said that David B. Douglas of Douglas Company, on behalf of Overview Apartments Limited Partnership, has tendered an Option to Purchase the Murray Hill Park property.

Murray Hill Park is located off Bartlett Street adjacent to Bartlett Arms elderly housing. The proposed Option will allow David

Douglas to explore the feasibility of developing a plan for purchasing the property and constructing 48 units of elderly housing along with a passive recreation park (which park design and construction will be subject to the Recreation Advisory Commission and City Council approval) for special populations in the Asheville community.

The stated purchase price in the Option is $96,000; however, the purchase price shall not be less than the appraised value and is subject to the upset bid process as provided in G.S. 160A-269. The Option is also subject to Overview Apartments Limited Partnership being the successful bidder.

Mr. Irby Brinson, Parks & Recreation Director, said that this is a good opportunity to have another park in Asheville and they are in support of the project.

Mr. David B. Douglas briefed the Council on the plans for the area noting that there would be cooperation between the Housing Authority, the City of Asheville Parks & Recreation Department and the developer. He explained the financing and showed slides of a similar project. He said that the City will be responsible for maintaining the park.

Mr. Vess, along with Mr. David B. Douglas, answered various questions from Council, some being, but not limited to: what if Overview Apartments Limited Partnership is not the successful bidder, could someone submit a bid for a different use of the property, can the City require that a park be built, what the approximate rental price per unit would be, what does the 2010 Plan suggest for land development in that area, is home ownership a feasibility, and what is the cost of each unit.

Mr. David Jones, Executive Director of the Housing Authority, said that this project ties in with the Housing Authority's long range plans for single family housing in the area and spoke in support of it.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

EAGLE/MARKET STREETS DEVELOPMENT CORPORATION

Recognize and Endorse

Mr. Marvin Vierra, Community Development Director, said that this matter was brought up on November 8, 1995, and it was the consensus of Council, that the Housing & CD Committee discuss this item at an upcoming meeting. Mr. Vierra then briefed Council by saying that the Eagle/Market Streets Development Corporation is a non-profit Community Development Corporation ("CDC"). The purpose of the CDC is to facilitate the physical redevelopment of the Eagle/Market Street area "The Block." The purpose further is to create an atmosphere conducive to African American entrepreneurship through provision of technical assistance and access to resources.

The Board of Directors of the CDC is composed of property owners, tenants, grassroots and community leaders.

The Eagle/Market Streets Development Corporation has requested a resolution from City Council approving and endorsing the Eagle/Market Streets Development Corporation.

Contract for Administrative Support

Mr. Vierra said that this contract will provide $57,517 to the Eagle/Market Streets Development Corporation (CDC) for administrative support.

The CDC has requested CDBG funds in the amount of $67,400 for administrative cost to hire staff and establish an office to facilitate the redevelopment of the South Pack Square area (Eagle/Market Street area). The current balance of CDBG funds appropriated for the South Pack Square Redevelopment project is $57,517. This represents 85% of the request from the CDC. This resolution will authorize a contract not to exceed $57,517 for administrative support for the CDC.

He passed out a new Scope of Services that included the following language: "The work program shall include a Business Plan that will include at a minimum the following elements: economic feasibility of proposed redevelopment activities, proposed funding resources and timetable for implementation for next five years, pro forma data for all proposed activities, jobs to be created and increase in tax base for proposed redevelopment activities."

Councilman Hay said that the Housing & Community Development Committee did review these matters and recommended Council's support.

Councilman Skalski voiced concerns about this project and the F.A. Johnson report. Although he wanted to see the South Pack Square Redevelopment Project get completed, he felt the scope of the committee was too small to succeed.

Dr. John Grant, President of the CDC, felt that the board members are very broad based, noting the makeup is of City representation, the business community, tenants, grassroot organizations, and property owners. He asked Councilman Skalski to tell them what other kind of representation he felt they should have on the board.

A member of the CDC said that one of the reasons this area has become blighted is because it has been totally ignored over the years. Had they received support in the past, they would not be suffering with the present conditions. She invited Councilman Skalski to come to their meetings. She felt that if the City puts up some good faith money, the CDC would then feel good about asking state and federal agencies for money too.

It was the consensus of Council to proceed with appropriate actions at the next formal Council meeting.

CITY/COUNTY SOLID WASTE AGREEMENT

Mr. Mark Combs, Public Works Director, said that Buncombe County seeks a formal agreement with the City for the disposal of the City's residential waste in a County-owned and operated landfill for a period of five years.

Presently the City deposits approximately 25% of the solid waste going into the Buncombe County landfill. With the promulgation of regulations based on Federal legislation passed in the 1980's, and the impending closure of its old landfill, Buncombe County had to choose between the construction of a landfill meeting the new requirements or acquiesce to the private sector for the provision of disposal services for Buncombe County residents.

Analysis has proven that disposal cost economies-of-scale begin at approximately 400 tons per day (to be competitive with privately-operated landfills). Buncombe County's volume is presently approximately 400 tons. Also, while difficult to quantify, the potential for long-term liability concerning landfill contamination issues can be lessened through stricter local control mechanisms, potentially avoiding millions in future liability costs.

Buncombe County has made the commitment to provide local disposal services for its residents for these reasons. Last year the County purchased property in the Alexander community for $3.5 million. Facilities, roads, and first phase (lined cell) construction will cost an additional $8.1 million. This landfill is currently under construction with a projected operation date of late Autumn, 1996. The County paid cash for the property but borrowed funds for facilities and cell construction, and thus seeks to guarantee financial mechanisms for the repayment of its debt service for the initial five-year cell phase.

The Service Agreement is summarized as follows: (1) Five-year duration from opening date of new landfill (with no rate escalators); (2) County will own and operate the landfill under federal and state regulations to exclude out-of-County wastes; (3) per ton disposal fee of $31; (4) County will operate a transfer station to receive and transport waste to the new landfill for $3 per ton; (5) County will operate or contract for two (of the current four) drop-off recycling sites located within City limits. The City currently pays for all four sites; (6) County will fund a recycling/reduction education program to include the City; (7) County to accept demolished house debris for reduced rate of $24 per ton; and (8) County will grant City a $2 per ton "recycling credit" if City has household recycling program.

The Public Works Department recommends adoption of the transfer, transportation and disposal agreement with Buncombe County. The agreement authorizes the City Manager to sign the agreement. This agreement will be mutually beneficial to each party, and in consideration of the alternatives available today, it is the best long-term solution to the community's solid waste disposal dilemma. The guarantee of a fixed five-year disposal fee in conjunction with local control mechanisms for cost and potential liability are advantageous to each party.

With the help of a slide program, Mr. Combs reiterated that Buncombe County seeks a formal agreement with the City of Asheville for services to guarantee financing of debt service for initial landfill "cell" construction, and to insure "economy-of-scale" in landfill operations to be competitive with private landfill operations. The City agrees to a formal agreement (1) to ensure continued disposal service at a five-year fixed rate; (2) to participate in local control of disposal methods; (3) to minimize long term potential responsibility in contamination issues related to commercial "mega-landfills" and (4) to get the best balance of service and cost for citizens. He then reviewed the service agreement finances and the issues surrounding privatization.

Mr. Combs answered various questions from Council, some being, but not limited to, why it is good to keep control over our own solid waste, privatization concerns, and the length of the agreement and how it's to the City's advantage.

Ms. Leni Sitnick suggested Council try to get a topic on the agenda for the National League of Cities meeting in March - the topic being reducing solid waste.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

MEDIA DAY

Mayor Martin said that City Council is interested in having a Media Day for the purpose of enhancing their relationship with the media. He suggested the purpose of Media Day be to facilitate an exchange of ideas on ways to enhance the relationship between the media and the City of Asheville. He suggested an agenda consisting of: areas of improvement for the City, areas of improvement for the media, obstacles to success and future plans. He anticipated the meeting lasting one hour.

It was the consensus of Council to go forward with Media Day at an upcoming worksession agenda, to begin at 2:00 p.m., in Room 623 of the City Hall Building. It was agreed that a panel be comprised of City representation - Ms. Robin Westbrook, Water Efficiency Coordinator; a member of City Council and someone from the City Attorney's Office; and media representation.

REZONING PETITIONS

YORKSHIRE/BROOKSHIRE/REED STREET NEIGHBORHOOD

Mr. Gerald Green, Senior Planner, said that residents of the Yorkshire/Reed Street neighborhood have petitioned for rezoning of 91 lots in their neighborhood (approximately 48 acres) from R-3 to R-1A. Section 30-11-1 (c) of the Zoning Ordinance permits residents of an area to petition for rezoning of the area if the property owners signing the petition comprise a minimum of 51% of property owners in the area and own at least 51% of the property within the area for which the rezoning is requested. The petition meets these minimum requirements. Rezoning is requested to protect the existing character of the neighborhood.

The current R-3 zoning of the neighborhood permits single family development with a minimum lot size of 8,000 square feet and multi-family development of up to 16 units per acre. The requested R-1A zoning permits single family development with a minimum lot size of 5,400 square feet and prohibits multi-family development. Certain non-residential uses, such as churches and schools, are permitted in both districts.

The petition has been reviewed by the Planning staff and meets the requirements for a valid petition. City Council must consider whether to initiate a special zoning study of the area to determine whether a change in the zoning of the area is warranted. If the zoning study is initiated, the request will be forwarded to the Planning & Zoning Commission for review and recommendation. The request will then be presented to City Council, with the recommendation of the Planning & Zoning Commission, for a final decision.

The Planning Department recommends that any zoning study of this area await the completion of the Unified Development Ordinance ("UDO") and be conducted as part of the UDO mapping process. Mr. Green said that the goal of the Planning Department is to "keep our eye on the UDO and if we keep taking small bites, we can't get to the full picture."

Upon inquiry of Councilman Hay, Mr. Green said that the work involved in this study would be useful in the overall UDO mapping.

Vice-Mayor Field asked Ms. Julia Cogburn, Planning Director, if this study would slow up the UDO process and how it would slow it up. Ms. Cogburn replied that it would slow up the process and explained the necessary steps involved with a rezoning study. As a result of that response, Vice-Mayor Field said that her goal is to finish the UDO as quickly as possible and anything that deters the Planning Department from doing it, she has a concern about.

Upon inquiry of Councilman Worley, Mr. Green said that there are at least three other rezoning petitions that will eventually come before City Council asking for a study of their area to R-1A.

Councilman Worley was interested in completing the UDO as quickly as possible; however, he expressed concern for the people to have to wait another year for the mapping to be completed when any number of things could happen in that year. He was inclined to study this area, along with the Morningside Park neighborhood petition, and then no more studies until the UDO mapping was completed.

Mayor Martin said the rezoning study already in progress for the Haw Creek area was different. At this time, he would rather not tie up anymore staff time doing individual rezoning studies, but let them spend their time in completing the UDO.

Councilman Hay felt it was unfair for the City to institute a new zoning classification (R-1A) and not let citizens ask to have their property rezoned to it.

When Councilman Skalski asked if a neighborhood plan might be a solution, Mr. Green replied that a small area plan takes close to nine months to complete.

When Vice-Mayor Field asked if there was a threat of development in these areas, Mr. Green replied that there is a threat in the Yorkshire area dealing with a Housing Authority project.

Mr. David Jones, Executive Director for the Housing Authority of the City of Asheville, said that the Housing Authority owns the Yorkshire property and it meets their needs. He explained that there is a dentist interested in doing something different with that site and they have been negotiating with the dentist to help them find other suitable sites. He had a concern because the issue here could be a fair housing issue. The reason communities are asking for the rezoning is to keep low income people out of neighborhoods.

When Vice-Mayor Field inquired how the rezoning study would affect the Housing Authority's plans, Mr. Green explained that the Housing Authority is proposing a duplex and the R-1A zoning would only allow single-family. Mr. Green further explained that if the Housing Authority presents their site plan prior to any final action on the rezoning, then the site plan is valid and their project is okay, as long as it meets the ordinance requirements.

It was the consensus of Council to proceed bring this issue up at the next formal Council meeting, along with the following rezoning study request.

MORNINGSIDE PARK NEIGHBORHOOD

A petition has been received that requests 105 lots in the Morningside Park area off Brevard Road be rezoned from R-3 Medium Density Residential to R-1A Single Family, Moderate Density Residential.

The subject property is approximately 41.75 acres. The 105 lots are located within the area called Morningside Park which is directly west of Brevard Road behind the Laurelwood Condominiums. The 2010 Plan recommends this area to be low density residential.

Of the 105 lots, 72 have single family residential structures and 33 lots are currently vacant with two of these vacant lots being owned by a governmental agency. Of the 105 lots, 103 of them conform to the R-1A standard which is a minimum lot size of 5400 square feet and minimum lot width of 50 feet. The petition contains 74 verified property owner signatures or 70% of the property owners and the 74 lots constitute 66% of the land area.

The Planning staff recommends that the Morningside Park rezoning petition be held aside until the Unified Development Ordinance process is completed.

CONSENT:

Bids: Purchase of Two Trash Handling Systems

Summary: Sealed bids were received to furnish two trash handling systems for the Public Works Department, Sanitation Division. Seven bids were received. Staff recommends that the award be made to the low bidder, Cavalier Equipment Corporation, Cloverdale, Virginia, in the amount of $122,988.32 for the purchase of two 1996 Ford F-800 cab and chassis with Petersen trash handling systems. The following bids were received:

Vendor	Net Cost
Cavalier Equipment Corp., Cloverdale VA	$61,494.16
Cavalier Equipment Corp., Cloverdale VA	$68,545.00*
Carolina Truck Centers, Hickory, NC	$61,921.00
Nu-Life Environmental Inc., Easley, SC	$62,874.00
Nu-Life Environmental Inc., Easley, SC	$69,435.00*
Amick Equipment Company, Lexington, SC	$65,874.00
Carolina Truck & Body Co., Asheville, NC	$72,000.00

*Alternate Bid

Funds for this purchase are to be from the Sanitation Division's appropriations.

Establish Value for Disposal Parcel 6A

Summary: Disposal Parcel 6A has been appraised, the appraisal reviewed and it is necessary to establish Fair Reuse Value in order to market the property.

Disposal Parcel 6A is located at the northeast corner of Montford Avenue and Cherry Street. It is an irregular shaped parcel containing 12,595 square feet. The property has frontage on Montford Avenue in two places and along Cherry Street. Approximately 2,166 square feet in the southeastern corner is encumbered by an access easement and the subject benefits from rights to an approximate 2,017 square feet parking easement which fronts Cherry Street and adjoins the subject. It is zoned CG Commercial General and its highest and best use per the appraisal is commercial. The CG district is intended primarily to serve the surrounding neighborhood, providing goods and services that are day-to-day needs. Businesses which might tend to be a nuisance to the

immediately surrounding residential development are excluded. Retail stores may not exceed 30,000 square feet gross floor area.

Disposal Parcel 6A was appraised by David Moore, MAI, at a value of $69,250. The appraisal was reviewed by Francis Naeger, MAI, who concurred and recommended the appraisal value of $69,250 as Fair Reuse Value.

Authorize City Clerk to Advertise for Bids for Disposal Parcel 6A

Summary: The bid of Montford Partners in the amount of $69,250 for the purchase of Disposal Parcel 6A in the Head of Montford Redevelopment Project is not less than the established minimum price of $69,250. Disposal Parcel 6A is a CG Commercial General lot at the corner of Montford Avenue and Cherry Street comprising 12,595 square feet. The bid from Montford Partners for Disposal Parcel 6A includes the proposal to build a two story commercial building containing a total gross building area of 4,610 square feet, for retail and office space at an anticipated cost of $245,000. Montford Partners consists of Frank S. Smith, Canie B. Smith, and Dr. Charles T. Rowe. This resolution will initiate the sale of the property through the upset bid process.

Intent to Close Alley off Coleman Avenue

Summary: This resolution is to public hearing for March 12, 1996, to consider closing an unnamed alley running northerly off of Coleman Avenue.

Resolution for Bonds for City Employees and Amounts of Bonds

Summary: This resolution is required by Statute, and City Charter to set not only the amounts for fidelity/honesty bonds, but to establish which employees are required to have bonds.

In 1979, the City Council adopted Resolution 79-267 which placed separate bonds on the Finance Director and all City employees. The amount of the bond was $50,000 and the amount for all City employees was $15,000. The statute specifies that the "true accounting and faithful performance" bond for the City's financial officer be separate from all other bonds required.

Since 1979, the amount of the bond has periodically increased, presumably at the recommendation of various agents and brokers providing the City with advice.

Approximately three years ago (after a formal in-house risk management function was established) the amounts of the bonds were reviewed. It was learned that sometime since 1979, a bond was put into effect for $50,000 on the Finance Director, and a separate bond was in effect for the Deputy Revenue Collector (now Collections Supervisor), and still a third bond was in effect for all other City employees in the amount of $15,000.

Based on an assessment of the City's needs for surety, and an examination of competing markets, a decision was made to drop the bond for the Deputy Revenue Collector, and place one bond for all City employees. Further, based on minimum premium rules employed by most brokerages in recent years the City was able to increase the limits of the bonds to $250,000, at no increase in premium.

Several months later when the bond for the Finance Director renewed, it was decided to increase the limits for it to the same $250,000 limit provided to all other employees.

Since State law and the City Charter require the Council to set the limits for bonds, and to establish exactly who is to be covered by bonds, this resolution will recognize the current status of our fidelity/honesty bonds, and the appropriateness of our coverages.

Claims Administration Contract Amendment No. 1

Summary: The Claims Administration Contract, dated as of September 1, 1993, between the City and Asheville Claims Corporation includes the Operating Memorandum. These documents, in conjunction with several others, provide the vehicle to allow the City to implement, capitalize and operate our risk management program.

To finance the capitalization of the risk management program, Asheville Claims Corporation (a non-profit corporation organized to assist the City in risk management and claims administration) issued $10 million of Certificates of Participation, the net proceeds of which were immediately placed in a trust. In accordance with the terms of the trust indenture, Asheville Claims Corporation also conveyed to the Trustee "all rights, title, and interest in and to the City's Payment Obligations under the Contract ..." and "all moneys and securities from time to time held by the Trustee under this Indenture ...." As a result, the Asheville Claims Corporation has no assets or liabilities. Therefore, the requirement that Asheville Claims Corporation annually furnish the City audited financial statements is unnecessary and wasteful.

The proposed resolution consents to eliminating the requirement for annual audits. The consent of the Trustee (First Union National Bank of North Carolina) and the Credit Provider (Wachovia Bank of North Carolina, N.A.) must also be obtained for the change to take effect.

Report on Disposal of City-owned Property

Summary: Property disposals for the Fleet Management Division and the Water Resources Department during July 1, 1995, through December 31, 1995.

Contract for Affordable Housing Study and Budget Amendment

Summary: Funds will be transferred from the Employer Assisted Housing program to the Affordable Housing Study contract with the National Development Council.

Funds have not been utilized in the City's Employer Assisted Housing Program account which was created in January 10, 1994. Higher interest rates of bonds issued by the N.C. Housing Finance Agency have caused the Employer Assisted Housing Program not to be able to compete with the private mortgage interest rates. The Affordable Housing Study will survey the City's housing needs and assess the capability of non-profits to help the City better address its housing needs. Recommendations will be made on how to improve the housing program and increase production.

The Housing and Community Development Committee has reviewed the consultant proposals and recommends adoption of the budget amendment and the contract with the National Development Council.

Authority to proceed with design, engineering & contract administration for Transit Transfer Center

Summary: This resolution would authorize the architect to proceed with the design, engineering and construction for the new downtown transit transfer center.

City staff recommended contracting with Moser Mayer Phoenix Associates, P.A., to provide the design and engineering of a new downtown transit center. The transit transfer center is to be relocated from Pritchard Park to Aston Street, between Asheland Avenue and Coxe Avenue. As some questions arose from the surrounding property owners, the City Council decided that the architect should proceed only with the schematic design phase for the transfer center. In Resolution No. 95-18, adopted on February 7, 1995, the City Council authorized the City Manager to execute a contract with Moser Mayer Phoenix Associates, P.A., to proceed only with the schematic design phase at that time.

As the issues raised by surrounding property owners have now been addressed, City Council desires to proceed with the remaining design, engineering and construction administration services for this project. In that Resolution No. 95-18 provided limited authority for Moser Mayer Phoenix Associates, P.A., to provide services, it is necessary to provide them with further direction.

It was the consensus of Council to proceed with appropriate actions on the Consent Agenda at the next formal meeting.

BOARDS & COMMISSIONS

Board of Adjustment

It was the consensus of Council to postpone action on these appointments until Pre-Council on February 13, 1996.

CLOSED SESSION

At 4:20 p.m., Councilman Sellers moved to go into closed session in order to consult with the City Attorney in order to preserve the attorney-client privilege as authorized by G.S. 143-318.11 (a) (3); and (2) as authorized by G.S. 143-318.11 (a) (6) to consider the performance of an individual public officer or employee. This motion was seconded by Councilman Worley and carried unanimously.

At 5:05 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Vice-Mayor Field and carried unanimously.

ANNUAL GOAL SETTING PROCESS

Due to weather conditions over the past weekend, City Council was unable to complete their annual goal setting process. The following are 11 top goals arrived at by City Council: (1) Complete and adopt the Unified Development Ordinance (staff work completed by 12/31/96 and public review and adoption by 6/30/97); (2) Adopt and support "community oriented government; (3) Encourage and support police/community resource centers; (4) Address planning for and funding of City facilities/projects (Stephens-Lee Community Center, Civic Center long range improvements, Transit Transfer Center and Municipal Building); (5) Parks long range plan priorities; (6) Proceed with enforcement of the sign ordinance; (7) Maintain or improve the City's financial strength

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(maintain or improve City's bond ratings, adhere to City's Fiscal Policy, no ad valorem tax increase and maintain or increase City's fiscal reserves); (8) Encourage and support City employee relations (support Legacy of Excellence, encourage "risk taking", address pay plan issues and decentralize government and empower employees); (9) Adopt and begin a phased residential solid waste recycling program on July 1, 1996; (10) Work toward addressing City School educational performance disparities with the use of a task force; and (11) Continue efforts toward the City's 2010 Plan, Bicentennial Celebration, and seek the All American City designation. These top eleven goals were arrived at after 53 smaller topics were introduced and combined.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:00 p.m.

Magdalen Bowdoin
CITY CLERK

MAYOR

Tuesday - February 13, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Skalski asked for a moment of silence for his friend and UNC-A professor Dr. Deryl Johnson Howard, who died on February 6, 1996.

I. PROCLAMATIONS:

A. PRESENTATION BY THE ASHEVILLE-BUNCOMBE VISION STEERING COMMITTEE

Mr. Phil Carson, Chairman of the Asheville-Buncombe Vision Steering Committee, briefed the Council on the Asheville-Buncombe Vision and outlined the ten top issues to be addressed in the Vision, those being, Education, Protect and Preserve the Environment (sustainable and diversified economic development), Improve Jobs and Job Training; Improvement Government Operations (Children and Youth services), Improve Physical Infrastructure, Diversity of Community/Community Relations/Race Relations, Health Care and Medical Community Impact, Quality of Life, Crime and Violence/Substance Abuse, and Family Issues. He reviewed the vision for each topic and the strategies.

Mayor Martin stressed that it's imperative that we move forward with the visioning process and offered the use of office space at 29 Haywood Street for the first 100 days.

Vice-Mayor Field moved to adopt the Asheville-Buncombe Vision. This motion was seconded by Councilman Skalski and carried unanimously.

B. HOUSING AUTHORITY PRESENTATION

Ms. Annette Coleman, Chairman of the Housing Authority of the City of Asheville, presented City Council with checks totaling $58,641.11 for payment in lieu of taxes to help defray part of the cost of providing basic, essential City services. She said that the total to date to the City of Asheville is $1,049,817.72.

C. TROOP 91 - BOY SCOUTS

Mayor Martin recognized Troop 91 of the Boy Scouts who are working on their citizenship and community merit badges.

II. PUBLIC HEARINGS: None

III. UNFINISHED BUSINESS:

A. MINORITY BUSINESS PROGRAM DISPARITY STUDY

Mr. Larry Fisher, Finance Director, said that allegations have been made that the City's 1993 Disparity Study results were compromised.

He investigated the matter and his investigation revealed that wording changes were made between a September 16, 1993, Executive Summary report and an October 29, 1993, Executive Summary report. His conclusion is that those wording change were part of a valid process, and that they were "reasonable and enhanced the credibility of the overall report." He found no evidence that the study was compromised. He believes that Dr. Peggy A. Richmond, President and principal owner of Research and Evaluation Associates Inc. (the firm that the City contracted with to perform the study), confirms his conclusion by a letter dated January 17, 1996, which reads in part "I do not believe that our employees would have yielded to pressure to change results if such pressure had been exerted. They tell me that no such pressure was exerted."

Upon inquiry of Councilman Worley, Mr. Fisher said that, in his opinion, the wording changes were not significant nor was there any evidence of statistical changes.

Mr. Clarence Benton, former member of the Minority Business Commission and participant of the disparity study, said that the Minority Business Commission recommended, in its draft, for some changes to be made, particularly as they related to staffing. Some concerns expressed to him by the original consultants were (1) that the program not ever be put in Purchasing; and (2) at least two more people were needed to get the job done. One reason the Commission did not want it to go to Purchasing is because they felt it would not have the power or the clout that it needed to get the job done. MGT's recommendations, the specialists who actually did the study, should have been given more encouragement. He said the MB Program is not representative because there are no African Americans on the Commission. Other groups should have been included that still are not included, such as the NAACP. He felt the whole program is a sham and doesn't want anything to do with it.

Mr. H. K. Edgerton said that the minority community has come to realize that Asheville, in its remedial process, has neither the desire nor the commitment to institute a viable MB plan. The City overlooked the recommendations of MGT Management to provide adequate staff and budget for the MB Program, up to an including placing the program in Purchasing. The majority of the individuals on the MB Commission are representative of white male dominated organizations and there are no African American males on the Commission. There is an inequity of the terms on the Commission - ethnic organizations have a term of one year while the white male organizations have terms of two years. Over the objection of the NAACP and the minority community, the City conducted it's own independent investigation - which is tantamount to a cover-up. He felt there were too many unanswered questions. He said that he has "been told by federal law officials that the statutes that this City has been accused of violating are civil in nature and will probably warrant civil action. I can now only appeal to the decent citizens of this City to now help me in that process by making donations to the H.K. Edgerton Legal Fund, 94 Cumberland Avenue, 28801."

Mayor Martin said that City Council does not make the appointments to the MB Commission noting that the Chair of the Commission is a woman.

Ms. Marilyn Bass, MB Coordinator, read a prepared statement which said that her comments were in reference to the recommendations in the disparity study by REA and MGT rather than about the entire document.

A concerned resident felt that the community at large should have done the study.

Councilman Hay suggested that a worksession on the MB Plan be conducted, with maybe a report from the MB Commission, to see what the Council needs to be doing to make the program more effective.

Upon inquiry of Vice-Mayor Field about if the City is required to have a MB Plan, City Attorney Slawter said that State statute directs that local governments adopt goals for participation by minorities in local government contracting. If you have goals, it's difficult to think of moving toward achieving those goals if you don't have some type of plan about how you're going to achieve that goal. The goal is required and the plan is the method of implementing the goal.

Vice-Mayor Field then inquired if the City and County had a joint Plan or a County-wide MB Program, would it fulfill our State requirement? City Attorney Slawter replied that it would fulfill the City's requirement. She then asked that when a worksession was scheduled that a joint Plan be one of the issues the City looks at doing with the County.

City Manager Westbrook said that only last week the County Commissioners authorized County staff to work with the City on the joint issue of minority business and we have been proceeding in that direction.

Vice-Mayor Field said that she understood that the actual disparity study is not under question. She felt the issue is how the plan is administered, where it is located in the scheme of City government, and how much staff is necessary to administer the program. She stated that former Interim City Manager Bill Farris felt strongly that the Program should be moved out of Planning and into Purchasing. Since he was the CEO of the City, it was his job to make those decisions. She felt that some of these issues could well be resolved by dealing with it as a joint City/County plan.

Councilman Worley agreed that the City needed to do a better job with the MB Program and he looked forward to being able to accomplish that. He felt that the revisions to the recommendation section deal primarily with procedures. Since it appears that the study itself was not compromised, he was satisfied with the results of the investigation.

Councilman Cloninger was glad that the results of the study itself were not compromised and agreed that a worksession would be in order. The two issues raised that should be addressed are (1) whether there is adequate staffing for this program; and (2) whether the MB program should be administered under the Purchasing Division.

Vice-Mayor Field moved to accept the investigative report as outlined by Mr. Fisher. This motion was seconded by Councilman Worley and carried unanimously.

IV. NEW BUSINESS:

A. CONSIDERATION OF A RESOLUTION DIRECTING THE PLANNING & ZONING COMMISSION TO REVIEW THE REQUEST FOR THE REZONING OF 91 LOTS IN THE YORKSHIRE/BROOKSHIRE/REED STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

Councilman Cloninger said that his firm, that he is a partner in, represents clients who have a financial stake in what the City Council does in this matter. Therefore, he asked that he be allowed to withdraw

from any participation on this issue. Councilman Worley moved to excuse Councilman Cloninger. This motion was seconded by Councilman Sellers and carried unanimously.

Mr. Gerald Green, Senior Planner, said that residents of the Yorkshire/Reed Street neighborhood have petitioned for rezoning of 91 lots in their neighborhood from R-3 to R-1A. Section 30-11-1 (c) of the Zoning Ordinance permits residents of an area to petition for rezoning of the area if the property owners signing the petition comprise a minimum of 51% of property owners in the area and own at least 51% of the property within the area for which the rezoning is requested. The petition meets these minimum requirements. Rezoning is requested to protect the existing character of the neighborhood.

The current R-3 zoning of the neighborhood permits single family development with a minimum lot size of 8,000 square feet and multi-family development of up to 16 units per acre. The requested R-1A zoning permits single family development with a minimum lot size of 5,400 square feet and prohibits multi-family development. Certain non-residential uses, such as churches and schools, are permitted in both districts.

The petition has been reviewed by the Planning staff and meets the requirements for a valid petition. City Council must consider whether to initiate a special zoning study of the area to determine whether a change in the zoning of the area is warranted. If the zoning study is initiated, the request will be forwarded to the Planning & Zoning Commission for review and recommendation. The request will then be presented to City Council, with the recommendation of the Planning & Zoning Commission, for a final decision.

The Planning Department recommends that any zoning study of this area await the completion of the Unified Development Ordinance ("UDO") and be conducted as part of the UDO mapping process.

When Vice-Mayor Field asked if this area was considered when the Hendersonville Road Corridor Study was conducted, Mr. Green replied that it was not. She then remembered that when that Corridor Study was being developed, in the areas that were R-3, there was an opportunity to have transitional zoning that would allow some transition into a single-family neighborhood. When she inquired about if all the lots in this area were zoned R-3, Mr. Green said that they were not - that some of the lots along Hendersonville Road were zoned commercial.

Mr. Green said that one advantage for waiting until the UDO mapping process is complete before initiating a rezoning study is that it would provide staff more tools, e.g., transition zones, to make that transition from Hendersonville Road into the single-family neighborhood.

Councilman Worley was concerned that this area looks very complex to deal with in a rezoning petition, absent the UDO mapping, due to the jagged boundaries and the different zones.

Councilman Skalski asked Mr. Green if manpower was the reason why he was having reservations about doing rezoning studies at this time. Mr. Green said that there is a limited number of man-hours to do all the work that is required and it would divert them from other tasks that need to be done - one of those being the UDO. Mr. Skalski then asked that when a builder or developer comes in if there was a manpower problem now with getting group developments and rezonings through the process. Mr. Green said that in assigning priorities to work projects,

staff's top priority is always dealing with people who come in with either a development project or a rezoning request where the petitioner owns 100% of the property for which the rezoning is requested. Since that is how priorities are assigned, Councilman Skalski felt he had no choice but to support the rezoning study to proceed. His reasoning was since staff has enough manpower to put in new development, it should have enough manpower to protect the property of the 80% of the land which is residentially occupied. He felt it was time Council started protecting the quality of life of our citizens on a very broad base. He also felt another tool for Council was if we are in a position where staff feels they don't have the manpower to do what needs to be done, Council could always call for a moratorium on areas that are asking for protection. He said that someone might argue that we can't afford to do it legally, but the other argument would be can we not afford it legally to give the property owners the protection that they deserve.

Councilman Worley said that Council is concerned about neighborhoods as demonstrated by the rezoning study being done in the Haw Creek area. He said that Council is committed to complete the UDO process as quickly as possible and if a flood of rezoning petitions come in, it will surely affect staff's ability to complete the UDO within the deadline that Council has set. He felt that decisions for studies should be made on a case by case basis and in this case, the complexities of the study are too great to warrant his support. However, the next item coming to Council for their consideration is another rezoning study request and he would support that study. He felt firm that Council should review each request, one by one, keeping in mind what is the best available use of staff time - with the ultimate goal of completing the UDO.

Mr. David Jones, Executive Director of the Housing Authority, felt that this rezoning request was just an attempt to block the building of their apartments in the area. He felt the plan was very reasonable for low to moderate income houses in our community.

Mr. Dick Rice was concerned that the newspaper reported that the Housing Authority's land was divided into two lots so that a certain number of units could be built on one lot and another unit built on the other lot. Because the land was divided, no public hearing was required. He felt that the public has a right to be heard on issues that affect their neighborhood. He felt the money should be used to clean up the Chicken Hill area.

Councilman Skalski moved to initiate a special zoning study of the area. This motion was seconded by Councilman Hay.

Councilman Hay was concerned that we might be overburdening staff and distracting them from the UDO, but since Council has recently adopted the R-1A designation and he felt that we can't adopt the designation designed to protect neighborhoods like this, and then not accommodate their request to rezone.

On a 3-3 vote, with Councilmen Hay, Skalski and Sellers voting "yea" and Mayor Martin, Vice-Mayor Field and Councilman Worley voting "no", the motion failed.

B. MOTION DIRECTING THE PLANNING & ZONING COMMISSION TO REVIEW THE REQUEST FOR THE REZONING OF 105 LOTS IN THE MORNINGSIDE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

Mr. Carl Ownbey, Urban Planner, said that a petition has been received that requests 105 lots in the Morningside Park area off Brevard Road be rezoned from R-3 Medium Density Residential to R-1A Single Family, Moderate Density Residential.

The subject property is approximately 41.75 acres. The 105 lots are located within the area called Morningside Park which is directly west of Brevard Road behind the Laurelwood Condominiums. The 2010 Plan recommends this area to be low density residential.

Of the 105 lots, 72 have single family residential structures and 33 lots are currently vacant with two of these vacant lots being owned by a governmental agency. Of the 105 lots, 103 of them conform to the R-1A standard which is a minimum lot size of 5400 square feet and minimum lot width of 50 feet. The petition contains 74 verified property owner signatures or 70% of the property owners and the 74 lots constitute 66% of the land area.

The Planning staff recommends that the Morningside Park rezoning petition be held aside until the UDO mapping process is completed.

When Mayor Martin asked what the difference was between this rezoning request study and the Yorkshire area just considered by Council, Mr. Ownbey said that there are a lot of mixed uses in the Yorkshire area, whereas, in this request, it is all single family residential - no commercial.

Upon inquiry of Vice-Mayor Field, Mr. Ownbey said that in this rezoning study there would be less work to do than the Yorkshire study.

Councilman Worley spoke in favor of this study noting that the study is not driven by any threat of development, but is a pro active view the neighborhood has.

Mr. Dan Wilder, 52 Morningside Drive, spoke in support of the rezoning study.

Councilman Cloninger moved to initiate a special zoning study of the area. This motion was seconded by Councilman Worley and carried unanimously.

C. RESOLUTION NO. 96-20 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY FOR THE TRANSFER, TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE

Mr. Mark Combs, Public Works Director, said that Buncombe County seeks a formal agreement with the City for the disposal of the City's residential waste in a County-owned and operated landfill for a period of five years.

Presently the City deposits approximately 25% of the solid waste going into the Buncombe County landfill. With the promulgation of regulations based on Federal legislation passed in the 1980's, and the impending closure of its old landfill, Buncombe County had to choose between the construction of a landfill meeting the new requirements or acquiesce to the private sector for the provision of disposal services for Buncombe County residents.

Analysis has proven that disposal cost economies-of-scale begin at approximately 400 tons per day (to be competitive with privately-

operated landfills). Buncombe County's volume is presently approximately 400 tons. Also, while difficult to quantify, the potential for long-term liability concerning landfill contamination issues can be lessened through stricter local control mechanisms, potentially avoiding millions in future liability costs.

Buncombe County has made the commitment to provide local disposal services for its residents for these reasons. Last year the County purchased property in the Alexander community for $3.5 million. Facilities, roads, and first phase (lined cell) construction will cost an additional $8.1 million. This landfill is currently under construction with a projected operation date of late autumn, 1996. The County paid cash for the property but borrowed funds for facilities and cell construction, and thus seeks to guarantee financial mechanisms for the repayment of its debt service for the initial five-year cell phase.

The Service Agreement is summarized as follows: (1) Five-year duration from opening date of new landfill (with no rate escalators); (2) County will own and operate the landfill under federal and state regulations to exclude out-of-County wastes; (3) per ton disposal fee of $31; (4) County will operate a transfer station to receive and transport waste to the new landfill for $3 per ton; (5) County will operate or contract for two (of the current four) drop-off recycling sites located within City limits. The City currently pays for all four sites; (6) County will fund a recycling/reduction education program to include the City; (7) County to accept demolished house debris for reduced rate of $24 per ton; and (8) County will grant City a $2 per ton "recycling credit" if City has household recycling program.

The Public Works Department recommends adoption of the transfer, transportation and disposal agreement with Buncombe County. The agreement authorizes the City Manager to sign the agreement. This agreement will be mutually beneficial to each party, and in consideration of the alternatives available today, it is the best long-term solution to the community's solid waste disposal dilemma. The guarantee of a fixed five-year disposal fee in conjunction with local control mechanisms for cost and potential liability are advantageous to each party.

Upon inquiry of Councilman Hay about what happens at the end of the five year contract, Mr. Combs said that the City could elect to renew the contract or seek services elsewhere.

Vice-Mayor Field, having served on the County's Solid Waste Committee, felt that this is a step in the right direction for all concerned.

Councilman Hay said that since the City has recently undertaken the recycling program, it seems like this will work hand-in-hand with that program. There are incentives in this contract that will help the City move forward with the recycling program.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 96-20. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 102

D. RESOLUTION NO. 96-21 - RESOLUTION RECOGNIZING AND ENDORSING THE EAGLE/MARKET STREETS DEVELOPMENT CORPORATION

Mr. Marvin Vierra, Community Development Director, said that Eagle/Market Streets Development Corporation is a non-profit Community Development Corporation ("CDC"). The purpose of the CDC is to facilitate the physical redevelopment of the Eagle/Market Street area "The Block." The purpose further is to create an atmosphere conducive to African American entrepreneurship through provision of technical assistance and access to resources.

The Board of Directors of the CDC is composed of property owners, tenants, grassroots and community leaders.

The Eagle/Market Streets Development Corporation has requested a resolution from City Council approving and endorsing the Eagle/Market Streets Development Corporation.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Skalski moved for the adoption of Resolution No. 96-21. This motion was seconded by Councilman Cloninger and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 103

E. RESOLUTION NO. 96-22 - RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT WITH EAGLE/MARKET STREETS DEVELOPMENT CORPORATION FOR ADMINISTRATION SUPPORT

Mr. Marvin Vierra, Community Development Director, said that this contract will provide $57,517 to the Eagle/Market Streets Development Corporation (CDC) for administrative support.

The CDC has requested CDBG funds in the amount of $67,400 for administrative cost to hire staff and establish an office to facilitate the redevelopment of the South Pack Square area (Eagle/Market Street area). The current balance of CDBG funds appropriated for the South Pack Square Redevelopment project is $57,517. This represents 85% of the request from the CDC. This resolution will authorize a contract not to exceed $57,517 for administrative support for the CDC.

Councilman Hay said that this comes as a recommendation from the Housing & Community Development Committee. They felt that moving forward with this contract will help the Eagle/Market CDC get started.

Vice-Mayor Field said that the firm that she is an employee of, Spaceplan, was hired by F.A. Johnson to do the architectural assessment for part of the Eagle/Market Plan. Spaceplan was paid in full for their services by Mr. Johnson's firm last year. She is a salaried employee of Spaceplan, but she does not participate in any profit-sharing with the firm. She doesn't personally benefit financially from the relationship between Spaceplan and anyone else. Spaceplan has recently been hired to implement the first phase of the renovation of the Mt. Zion Church and the stabilization of the Asheville Foundry Building, which has recently been purchased by Mt. Zion Church. Dr. Grant, who is Chairman of the Eagle/Market CDC, is Pastor of the Mt. Zion Church. She said this particular project is being handled by another architect in her firm and she will not be involved professionally. She has recently been informed by Carroll Hughes, who owns Spaceplan, that he has set up a separate consulting firm and may be considered by the Eagle/Market CDC as their consultant in the future. This work, as she understands it, would not be of an architectural nature. She knows that she is required by law to

vote on every issue and she asked for some guidance on whether she has a conflict of interest or not in this particular situation. City Attorney Slawter explained that the State statute that applies provides that Council members are required to vote on all matters except where there is a statutory conflict of interest - which includes voting upon matters involving either the consideration of Council members own financial interest or official conduct. The official conduct is certainly not involved, therefore, the only question is whether there is any financial interest involved. As Vice-Mayor Field has described it, there would not be financial interest involved. Therefore, if there is no financial interest involved, then there is no conflict of interest and she should vote.

Councilman Cloninger spoke in support of the contract noting the fine leadership of Dr. Grant in this project. He looked forward to the project moving forward and being successful

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Skalski read a prepared statement as follows: "Will the community at large support the Eagle/Market Street neighborhood redevelopment? Yes, the community will. We, as a community, a community of neighborhoods, must take into account the fact that many families on fixed incomes are currently having trouble making ends meet. Family breadwinners are losing their jobs or are taking lower paying jobs. Many small businesses are struggling. The future of our economy is tenuous. The federal government is downsizing. People want a balanced budget. Future federal funding of projects will be less and harder to come by. We as neighbors and tax payers must ask how it is that projects can be done in the most fiscally conservative and socially responsible and humane manner. Our community deserves accountability. To achieve community-wide, neighborhood support we must include the following in this Eagle/Market Street neighborhood redevelopment grant of $57,517 for administrative assistance: (1) a Mini-Business Plan with goals and measurable objectives and a reasonable time frame (8-12 months), i.e., list number of funding applications that will be made and to which type of institutions. This is a mini-business plan for the $57K; (2) I like the idea of having an office in the YMI Building. This would help support the YMI; (3) All future requests for CDBG funding shall be on a matching basis. Matching funding could be procured from foundations, local banks, the corporate community and individuals. We must plan for the very near future. The federal government is downsizing. We have to adjust for the fact that there will be less money to go around. We must work together toward what is feasible and humanely possible; and (4) I would encourage our police Chief Annarino to work with this neighborhood. No private investors will put money into a neighborhood, unless we work together to get crime out. Yes, the community does support the Eagle/Market Street neighborhood with these specific, accountability guidelines." He then moved to execute a contract with Eagle/Market Streets Development Corporation for administrative support in the amount of $57,517, with the inclusion of the above provisions. There being no second, the motion failed.

Councilman Hay then moved for the adoption of Resolution No. 96-22 to execute a contract with Eagle/Market Streets Development Corporation for administrative support in the amount of $57,517. This motion was seconded by Councilman Worley.

Councilman Hay stated that Councilman Skalski's concerns were legitimate, however, this is basically a planning grant. He felt the fewer limitations we put on them up front, other than accountability,

the better. He didn't think the City would have any problems monitoring the progress and any accountability problems.

Vice-Mayor asked if we could encumber CDBG money by requiring this project to match funds and not requiring all our other projects to match funds. Mr. Vierra responded by saying that basically you can do what you want with CDBG funds; however, in all fairness, you should have to require that of all CDBG recipients.

A resident of Asheville felt that the spirit in which Councilman Skalski brings up accountability is a good one, but accountability comes from the community and the whole point of giving these funds over for planning and development is to have the community plan and develop. She felt it was presumptuous to impose an outline on the way they should plan and develop for their own environment.

Ms. Willie Mae Brown, Eagle/Market Streets Development Corporation Board Member, felt that the Board members did have the intelligence to manage the $57,517. She felt that comments made by Councilman Skalski regarding matching funds were made because he was not familiar with the plans for the area. She stated that this seed money will allow them to become organized and enable them to begin seeking grants, and asking other organizations, foundations, and individuals for matching funds. But, that will not keep them from coming back and asking for more CDBG funds. She felt if they needed the support, they are entitled to ask for it. She stressed that they will be accountable to any money they receive. She invited Councilman Skalski to come to the Board meetings and be the City Council representative so there will be no doubts as to what they will do with the money they receive.

Dr. John Grant, Chairman of the Eagle/Market Streets Development Corporation, stressed that this is not only the immediate neighborhood's goal to redevelop the area, but it's a City of Asheville goal.

On a voice vote, Resolution No. 96-22 was adopted on a 6-1 vote, with Councilman Skalski voting "no".

Mr. Larry Linney asked if the recently adopted Resolution No. 96-21 that recognized and endorsed the Eagle/Market Streets Development Corporation limited the Eagle/Market CDC as the only recipient of CDBG funds. City Attorney Slawter responded that it did not.

Mr. Linney asked if he could obtain the City Attorney's legal opinion regarding the conflict of interest question raised by Vice-Mayor Field earlier in the meeting. City Attorney Slawter said that the minutes of this meeting would provide the question and his opinion accurately and he should obtain a copy from City Clerk Burleson. He said if that was not sufficient, Mr. Linney should let him know.

Mr. Linney then asked if that legal opinion applies not only to the present relationship, but whether it also applies to Spaceplan's receipt of CDBG funds from the F.A. Johnson contract last year. City Attorney Slawter said that as far as his legal opinion today, the minutes of this meeting will reflect that. With regard to last year's matters, he recalled very well that more than one time Vice-Mayor Field was excused from voting because of the conflict of interest on the issues that came up related to Mr. Johnson. Vice-Mayor Field then stated that she did not participate.

V. CONSENT:

A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 23, 1996, AND THE WORKSESSION HELD ON FEBRUARY 6, 1996**

B. **RESOLUTION NO. 96-23 - RESOLUTION TO AWARD BID FOR TWO TRASH HANDLING SYSTEMS**

Summary: Sealed bids were received to furnish two trash handling systems for the Public Works Department, Sanitation Division. Seven bids were received. Staff recommends that the award be made to the low bidder, Cavalier Equipment Corporation, Cloverdale, Virginia, in the amount of $122,988.32 for the purchase of two 1996 Ford F-800 cab and chassis with Petersen trash handling systems. The following bids were received:

Vendor	Net Cost
Cavalier Equipment Corp., Cloverdale VA	$61,494.16
Cavalier Equipment Corp., Cloverdale VA	$68,545.00*
Carolina Truck Centers, Hickory, NC	$61,921.00
Nu-Life Environmental Inc., Easley, SC	$62,874.00
Nu-Life Environmental Inc., Easley, SC	$69,435.00*
Amick Equipment Company, Lexington, SC	$65,874.00
Carolina Truck & Body Co., Asheville, NC	$72,000.00

*Alternate Bid

Funds for this purchase are to be from the Sanitation Division's appropriations.

RESOLUTION BOOK NO. 23 - PAGE 105

C. **RESOLUTION NO. 96-24 - RESOLUTION ESTABLISHING THE FAIR REUSE VALUE FOR DISPOSAL PARCEL 6A OF THE HEAD OF MONTFORD REDEVELOPMENT PROJECT**

Summary: Disposal Parcel 6A has been appraised, the appraisal reviewed and it is necessary to establish Fair Reuse Value in order to market the property.

Disposal Parcel 6A is located at the northeast corner of Montford Avenue and Cherry Street. It is an irregular shaped parcel containing 12,595 square feet. The property has frontage on Montford Avenue in two places and along Cherry Street. Approximately 2,166 square feet in the southeastern corner is encumbered by an access easement and the subject benefits from rights to an approximate 2,017 square feet parking easement which fronts Cherry Street and adjoins the subject. It is zoned CG Commercial General and its highest and best use per the appraisal is commercial. The CG district is intended primarily to serve the surrounding neighborhood, providing goods and services that are day-to-day needs. Businesses which might tend to be a nuisance to the immediately surrounding residential development are excluded. Retail stores may not exceed 30,000 square feet gross floor area.

Disposal Parcel 6A was appraised by David Moore, MAI, at a value of $69,250. The appraisal was reviewed by Francis Naeger, MAI, who concurred and recommended the appraisal value of $69,250 as Fair Reuse Value.

RESOLUTION BOOK NO. 23 - PAGE 107

D. **RESOLUTION NO. 96-25 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL PARCEL 6A OF THE HEAD OF MONTFORD REDEVELOPMENT PROJECT**

Summary: The bid of Montford Partners in the amount of $69,250 for the purchase of Disposal Parcel 6A in the Head of Montford Redevelopment Project is not less than the established minimum price of $69,250. Disposal Parcel 6A is a CG Commercial General lot at the corner of Montford Avenue and Cherry Street comprising 12,595 square feet. The bid from Montford Partners for Disposal Parcel 6A includes the proposal to build a two story commercial building containing a total gross building area of 4,610 square feet, for retail and office space at an anticipated cost of $245,000. Montford Partners consists of Frank S. Smith, Canie B. Smith, and Dr. Charles T. Rowe. This resolution will initiate the sale of the property through the upset bid process.

RESOLUTION BOOK NO. 23 - PAGE 108

E. **RESOLUTION NO. 96-26 - RESOLUTION APPROVING AN OPTION TO PURCHASE MURRAY HILL PARK PROPERTY TENDERED BY OVERVIEW APARTMENTS LIMITED PARTNERSHIP**

Summary: David B. Douglas of Douglas Company, on behalf of Overview Apartments Limited Partnership, has tendered an Option to Purchase the Murray Hill Park property.

Murray Hill Park is located off Bartlett Street adjacent to Bartlett Arms elderly housing. The proposed Option will allow David Douglas to explore the feasibility of developing a plan for purchasing the property and constructing 48 units of elderly housing along with a passive recreation park for special populations in the Asheville community.

The stated purchase price in the Option is $96,000; however, the purchase price shall not be less than the appraised value and is subject to the upset bid process as provided in G.S. 160A-269. The Option is also subject to Overview Apartments Limited Partnership being the successful bidder.

RESOLUTION BOOK NO. 23 - PAGE 109

F. **RESOLUTION NO. 96-27 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED ALLEY RUNNING NORTHERLY OFF OF COLEMAN AVENUE AND CALLING FOR A PUBLIC HEARING ON MARCH 12, 1996**

RESOLUTION BOOK NO. 23 - PAGE 110

G. **RESOLUTION NO. 96-28 - RESOLUTION CONSENTING TO AN AMENDMENT NO. 1 TO THE CLAIM ADMINISTRATION CONTRACT AND THE OPERATING MEMORANDUM TO DELETE THE REQUIREMENT THAT ASHEVILLE CLAIMS CORPORATION ANNUALLY FURNISH TO THE CITY AUDITED FINANCIAL STATEMENTS PREPARED BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS**

Summary: The Claims Administration Contract, dated as of September 1, 1993, between the City and Asheville Claims Corporation includes the Operating Memorandum. These documents, in conjunction with several others, provide the vehicle to allow the City to implement, capitalize and operate our risk management program.

To finance the capitalization of the risk management program, Asheville Claims Corporation (a non-profit corporation organized to assist the City in risk management and claims administration) issued $10 million of Certificates of Participation, the net proceeds of which were immediately placed in a trust. In accordance with the terms of the trust indenture, Asheville Claims Corporation also conveyed to the Trustee "all rights, title, and interest in and to the City's Payment Obligations under the Contract ..." and "all moneys and securities from time to time held by the Trustee under this Indenture ...." As a result, the Asheville Claims Corporation has no assets or liabilities. Therefore, the requirement that Asheville Claims Corporation annually furnish the City audited financial statements is unnecessary and wasteful.

The proposed resolution consents to eliminating the requirement for annual audits. The consent of the Trustee (First Union National Bank of North Carolina) and the Credit Provider (Wachovia Bank of North Carolina, N.A.) must also be obtained for the change to take effect.

RESOLUTION BOOK NO. 23 - PAGE 111

H. RESOLUTION NO. 96-29 - RESOLUTION FOR BONDS FOR CITY EMPLOYEES AND AMOUNTS OF BONDS

Summary: This resolution is required by Statute, and City Charter to set not only the amounts for fidelity/honesty bonds, but to establish which employees are required to have bonds.

In 1979, the City Council adopted Resolution 79-267 which placed separate bonds on the Finance Director and all City employees. The amount of the bond was $50,000 and the amount for all City employees was $15,000. The statute specifies that the "true accounting and faithful performance" bond for the City's financial officer be separate from all other bonds required.

Since 1979, the amount of the bond has periodically increased, presumably at the recommendation of various agents and brokers providing the City with advice.

Approximately three years ago (after a formal in-house risk management function was established) the amounts of the bonds were reviewed. It was learned that sometime since 1979, a bond was put into effect for $50,000 on the Finance Director, and a separate bond was in effect for the Deputy Revenue Collector (now Collections Supervisor), and still a third bond was in effect for all other City employees in the amount of $15,000.

Based on an assessment of the City's needs for surety, and an examination of competing markets, a decision was made to drop the bond for the Deputy Revenue Collector, and place one bond for all City employees. Further, based on minimum premium rules employed by most brokerages in recent years the City was able to increase the limits of the bonds to $250,000, at no increase in premium.

Several months later when the bond for the Finance Director renewed, it was decided to increase the limits for it to the same $250,000 limit provided to all other employees.

Since State law and the City Charter require the Council to set the limits for bonds, and to establish exactly who is to be covered by bonds, this resolution will recognize the current status of our fidelity/honesty bonds, and the appropriateness of our coverages.

RESOLUTION BOOK NO. 23 - PAGE 114

I. **RESOLUTION NO. 96-30 - RESOLUTION ACCEPTING A REPORT ON THE DISPOSAL OF CITY-OWNED PERSONAL PROPERTY**

Summary: Property disposals for the Fleet Management Division and the Water Resources Department during July 1, 1995, through December 31, 1995.

RESOLUTION BOOK NO. 23 - PAGE 115

J. **RESOLUTION NO. 96-31 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE NATIONAL DEVELOPMENT COUNCIL TO PROVIDE CONSULTING SERVICES FOR AN AFFORDABLE HOUSING STUDY**

Summary: Funds will be transferred from the Employer Assisted Housing program to the Affordable Housing Study contract with the National Development Council.

Funds have not been utilized in the City's Employer Assisted Housing Program account which was created in January 10, 1994. Higher interest rates of bonds issued by the N.C. Housing Finance Agency have caused the Employer Assisted Housing Program not to be able to compete with the private mortgage interest rates. The Affordable Housing Study will survey the City's housing needs and assess the capability of non-profits to help the City better address its housing needs. Recommendations will be made on how to improve the housing program and increase production.

The Housing and Community Development Committee has reviewed the consultant proposals and recommends adoption of the budget amendment and the contract with the National Development Council.

RESOLUTION BOOK NO. 23 - PAGE 116

K. **RESOLUTION NO. 96-32 - RESOLUTION AUTHORIZING MOSER MAYER PHOENIX ASSOCIATES, P.A., TO PROCEED WITH DESIGN, ENGINEERING AND CONTRACT ADMINISTRATION SERVICES FOR TRANSIT TRANSFER CENTER**

Summary: This resolution would authorize the architect to proceed with the design, engineering and construction for the new downtown transit transfer center.

City staff recommended contracting with Moser Mayer Phoenix Associates, P.A., to provide the design and engineering of a new downtown transit center. The transit transfer center is to be relocated from Pritchard Park to Aston Street, between Asheland Avenue and Coxe Avenue. As some questions arose from the surrounding property owners, the City Council decided that the architect should proceed only with the schematic design phase for the transfer center. In Resolution No. 95-18, adopted on February 7, 1995, the City Council authorized the City Manager to execute a contract with Moser Mayer Phoenix Associates, P.A., to proceed only with the schematic design phase at that time.

As the issues raised by surrounding property owners have now been addressed, City Council desires to proceed with the remaining design, engineering and construction administration services for this project. In that Resolution No. 95-18 provided limited authority for Moser Mayer Phoenix Associates, P.A., to provide services, it is necessary to provide them with further direction.

RESOLUTION BOOK NO. 23 - PAGE 117

L. **MOTION SETTING A PUBLIC HEARING ON FEBRUARY 27, 1996, TO REZONE 21 PARCELS ON MARNE ROAD FROM R-3 RESIDENTIAL TO R-1A RESIDENTIAL DISTRICT**

M. **MOTION SETTING A PUBLIC HEARING ON FEBRUARY 27, 1996, TO AMEND THE ZONING ORDINANCE TO ALLOW RESIDENCES IN THE COMMERCIAL SERVICE DISTRICT USING R-3 MEDIUM DENSITY RESIDENTIAL STANDARDS**

Mayor Martin said that members of Council have been previously furnished with copies of the items on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Vice-Mayor Field and carried unanimously.

Ordinances:

A. **ORDINANCE NO. 2257 - BUDGET AMENDMENT FOR A CONTRACT WITH THE NATIONAL DEVELOPMENT COUNCIL FOR AN AFFORDABLE HOUSING STUDY**

Summary: This budget amendment, in the amount of $10,000, is for a contract with the National Development Council for an affordable housing study.

ORDINANCE BOOK NO. 15 - PAGE 267

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance on the Ordinance Consent Agenda and it will not be read.

Vice-Mayor Field moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first reading.

VI. OTHER BUSINESS:

A. **RESOLUTION NO. 96-33 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT**

City Clerk Maggie Burleson read the resolution stating that the terms of Bud Taylor and Judy Long (as Regular members) and the term of Jim Hunter (as an Alternate member), on the Board of Adjustment, expired on January 21, 1996.

This resolution will (1) reappoint Bud Taylor, as a Regular member, to serve a three year term, term to expire January 21, 1999; (2) appoint Dennis J.R. Hodgson, as a Regular member, to serve a three year term, term to expire January 21, 1999; and (3) appoint Joseph Brady, as an Alternate member, to serve a three year term, term to expire January 21, 1996. All terms are until their successors have been appointed.

Councilman Worley moved for the adoption of Resolution No. 96-33. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 118

B. RESOLUTION NO. 96-34 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Mayor Martin read a letter from Chris Peterson, dated February 12, 1996. The letter reads: "As of February 12, 1996, I am giving notification that I will be resigning effective immediately from the Water Authority Board. It has been a privilege and honor to have served on this Board but I have found that I must devote more time to my businesses and I would not be an effective member. I feel Mike Holcombe, Ernest Ferguson and the Board have done a tremendous job, especially in securing a new water source and the building of a new water plant. I wish the continued success to this Board and if I can ever be of any service in the future, please feel free to call me."

City Clerk Maggie Burleson said that Mr. Peterson's resignation leaves an unexpired term on the Water Authority.

Vice-Mayor Field moved to appoint Charles R. Worley to fill the unexpired term of Chris Peterson, term to expire September 30, 1996, or until his successor has been appointed. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 119

C. REZONING PETITION STUDIES

Vice-Mayor Field said that earlier in the meeting when the rezoning petitions were considered by Council, discussion surrounded how much staff time is involved in a special study. At the retreat, Council's number one goal was to get the UDO mapping process done by the end of the year and the UDO completed, hopefully, within the next 18 months. She suggested a policy letting the community know that the direction the Council is to move toward completion of the UDO and that they are not inclined to take on any new major rezonings.

Mayor Martin suggested fine-tuning the suggestion to state that even though Council will continue to accept the requests, they will not be inclined to grant those requests due to the ongoing UDO process.

Councilman Worley suggested a policy that the completion of the UDO is Council's number one priority and that any rezoning requests will be judged, not only on their merits, but also in conjunction of that number one priority.

Councilman Cloninger agreed that Council shouldn't bog down the Planning staff, but at the same time, he didn't feel comfortable passing a policy telling future petitioners that Council is disinclined to grant their requests. He didn't think they should be on any different ground than anyone who has come before them now. He then moved to confirm that the completion of the UDO is Council's number one priority; however, when special rezoning petitions are received by the City, City staff will make their recommendations to City Council, who will then review each study on a case by case basis, with the merits of the request being considered, along with what impact the study (staff time included) will have on the UDO process. This motion was seconded by Councilman Worley.

City Manager Westbrook appreciated Council's concern. He proposed that future studies be reviewed by staff with their recommendations bringing brought to Council, along with a recommendation that the study be delayed until the UDO mapping is complete. Obviously he was concerned that the rezoning studies would be coming in little by little

and before you knew it, staff would not be working on Council's number one goal which is to complete the UDO.

Councilman Skalski stated that Council has moral and legal obligation to protect the property and the citizens of Asheville. Therefore, he suggested that if the City gets into a bind where there is not enough staff to protect the neighborhoods, he would be inclined to add that Council put in some limited moratoriums in some of these areas that are requesting it.

Councilman Skalski then made a substantive motion that when special rezoning petitions are received by the City, City staff will make their recommendations to City Council, who will then review each study on a case by case basis, with the merits of the request being considered, along with what impact the study (staff time included) will have on the UDO process. If, however, Council feels that the staff is being overburdened by the special rezoning study, that Council seriously consider using the moratorium method to protect neighborhoods. Due to a lack of a second, this motion died.

On a voice vote of 6-1, with Councilman Skalski voting "no", the motion made by Councilman Cloninger and seconded by Councilman Worley carried.

D. CLAIMS

The following claims were received by the City of Asheville during the week of January 19-26, 1996: Wilton Waters (Streets), Clarence Rogers (Streets), Charles E. Smith (Streets), Karen Majors (Streets), Brian Reade (Streets) and Vic Buchanan (Streets).

The following claims were received by the City during the week of January 26-February 2, 1996: David Jordan (Water), Wallace Boston (Police) and Edward A. Gibson (Police).

The following claims were received by the City during February 2-8, 1996: Randy Mahaffey (Water), Ruth Mills (Streets), Jimmy Jaramillo (Water) and James Harrison (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:25 p.m.

Magdalen Burdon
CITY CLERK

MAYOR

Tuesday - February 20, 1996 - 2:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CLOSED SESSION

At 2:05 p.m., Councilman Worley moved to go into closed session to (1) discuss matters relating to the location or expansion of industries or other businesses in the area , as authorized by G.S. 143-318.11 (a) (4); and (2) consult with the City Attorney in order to preserve the attorney-client privilege in the pending legal action involving N.C. Dept. of Transportation and the City, as authorized by G.S. 143-318.11 (a) (3). This motion was seconded by Vice-Mayor Field and carried unanimously.

At 2:45 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Vice-Mayor Field and carried unanimously.

ARTS ALLIANCE MID-YEAR REPORT

Ms. Linda Wilkerson, Executive Director of the Arts Alliance, passed out their mid-year report and briefed City Council on their activities. She gave many examples of how the Arts Alliance serves as a primary resource for community residents, businesses, agencies, and visitors for information on nonprofit administration, fund raising, promotion, grant writing, employment opportunities, cultural agencies and arts available, and general information on the City of Asheville.

Councilman Worley stated that a successful arts community is a major economic development attraction and the Arts Alliance enhances our entire community.

DOWNTOWN COMMISSION REPORT

Mr. Brady Blackburn, Chairman of the Business District Coalition, passed out to Council a resolution adopted by the Business Coalition District on January 18, 1996, concerning the future of the Business District Coalition. He said the recommended changes in the City Development Office will effect the future of the Downtown Commission, the Business District Commission and the economic development focus of the Planning & Development Department. The Business District Coalition believes that it is necessary to continue a strong commitment to redevelopment and further revitalization of the Asheville's established district. Therefore, the Coalition requests that the City Council recognize them as an official City Council appointed body and that the Coalition be formed consisting of the following members: Asheville Downtown Association, the Biltmore Village Merchants Association, the Chamber of Commerce - small business representative, Council of Asheville Neighborhoods, Eagle/Market Streets Development Corporation, RiverLink, West Asheville Business Association; Appointments from the City of Asheville; Appointments from Buncombe County; and any other retail/merchant organization interested in participating.

Mr. Blackburn, Chairman of the Asheville Downtown Commission, then passed out another resolution adopted by the Asheville Downtown Commission on February 9, 1996, concerning the future of the Downtown Commission and the Division Head for the City Development Office. He said the Commission also believes that it is necessary to continue a strong commitment to redevelopment and further revitalization of the downtown while also expanding the redevelopment efforts to other old business districts of the City. Therefore, the Commission requests that the Downtown Commission remains intact as a City Council appointed body, that there be a new Commission formed consisting of the existing members of the Business District Coalition plus the addition of members representing Advantage West, Asheville Merchants Association, and the Chamber of Commerce, and that the position of Division Head of the City Development Office be filled by a facilitator/downtown development type person as opposed to a person with more tradition economic development/industry recruitment background.

Councilman Worley felt that this new Coalition can work on all various economic development factors in the City. He felt that there is a clear need for strong coordination and cooperation from amongst these groups to do an effective economic development job in the City.

Vice-Mayor Field strongly supported the recognition of the Business District Coalition; however, City Council should be aware that the make-up they are suggesting for the Coalition is much like the make-up of the Minority Business Commission. Regarding the Minority Business Commission, City Council appoints organizations and they choose who they want to represent their organization. She felt City Council may not have diversity of perhaps City residents, women, minorities, etc. on that Coalition. She supported the Downtown Commission resolution as presented by Mr. Blackburn.

Mr. Blackburn said that the Coalition would also consist of City and County appointments and that should alleviate some of Vice-Mayor Field's concerns. He also said that the Chairman of the Downtown Commission would be a member on the Coalition.

Upon inquiry of Councilman Hay on what the relationship between the Coalition and the Downtown Commission was, Councilman Worley said that even though these were two separate commissions, recommendations coming out of the Downtown Commission would be coordinated through the Business District Coalition so that City Council would not be receiving conflicting requests.

Councilman Cloninger thanked Mr. Blackburn for his outstanding leadership on the Downtown Commission and on the Business District Coalition.

Councilman Skalski felt a mission of the Coalition should be to represent the small businessman. Mr. Blackburn responded that he hoped the organizations which will make up the Coalition will provide that representation.

Vice-Mayor Field felt it was very important to keep the Downtown Commission intact while continuing to recognize the uniqueness of downtown and how the downtown may have some specific needs that the Commission can address and, at the same time, recognizing that we need some kind of economic development commission.

Mayor Martin thanked Mr. Blackburn for bringing this information to the Council.

BICENTENNIAL COMMITTEE REPORT

Mr. Richard Nantelle, Chairman of the informal Bicentennial Committee, and Mr. Harry Weiss, Vice-Chair, said that the City of Asheville will celebrate its 200th anniversary in 1997. This committee has been organized to coordinate events as well as promote the City's heritage during the bicentennial year. The committee has established six goals for the bicentennial: (1) Reacquaint Asheville residents with their cultural heritage; (2) Involve all Asheville neighborhoods in the celebration; (3) Create a map of historic sites, events and bicentennial opportunities; (4) Publish a bicentennial cultural calendar of events; (5) Establish a legacy program; and (6) Develop a vision project; the future through the past. In addition, the committee has come up with numerous event ideas including: (1) A. Douglas Ellington architectural exhibition; (2) lecture series; (3) Asheville film series; (4) bicentennial moments on radio and television; (5) "A Slice of History" children's program; (6) History Comes Alive; (7) children's float parade (Bele Chere); and (8) an updated City/County architectural survey.

Upon inquiry of Vice-Mayor Field about the committee members, Mr. Weiss explained that the committee at this point is only in the brainstorming mode and participation on the committee will be expanded and will be very community oriented.

Mayor Martin, on behalf of the Council, expressed his appreciation to the Committee and looked forward to being kept involved in this very important event for Asheville.

It was the consensus of Council to proceed with appropriate action at the next formal meeting to establish the Asheville Bicentennial Committee.

FIRE LANE PARKING VIOLATION FEE

Ms. Deborah Crowder, Revenue Manager, said that an amendment needs to be considered by City Council which would make all fire lane violation fees uniform. The City of Asheville currently has three fee amounts for fire lane violations. The Police Department issues fire lane violations in the amount of $25. Enforcement staff of Parking Service issues fire lane violations in the amount of $10 by authority set forth in Sections 19-14 and 19-137 of the City Code. The Fire Department issues a fire lane violation in the amount of $35 as set forth in the Fire Code adopted in July of 1995.

It is staff's recommendation to amend Appendix B of the City Code to include a $35 penalty for parking in a fire lane. This recommendation has been reviewed by the Police Department, Fire Department, City Attorney's Office and the Finance Department.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

DEED WITH STATE FOR LAND ADJACENT TO WNC AGRICULTURAL CENTER

City Attorney Slawter said that the N.C. Dept. of Agriculture has, for some time, expressed interest in acquiring from the City a tract of approximately 15.65 acres located adjacent to the Agricultural Center. On March 30, 1993, the City Council adopted Resolution No. 93-44 authorizing the Mayor to sign an option for conveyance of 8.2 acres of the tract to the State for $225,500 ($27,500 per acre). The actual survey reflects 8.31 acres and a resulting purchase price of $228,525. The remainder of the 15.65 acres has been condemned by the N.C. Dept. of

Agriculture and the City is being separately compensated for that property.

This property was purchased jointly by the City and the Federal Aviation Administration on a 50/50 basis. The FAA grant agreement requires that the proceeds of the sale be split 50/50 with the City being allowed to retain one-half of the proceeds and the remaining one-half of the proceeds being required to be put into an airport project at the Asheville Regional Airport.

This resolution authorizes the conveyance to the State of North Carolina of 8.31 acres adjacent to the WNC Agricultural Center for a purchase price of $228,525.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

CONSENT:

Budget amendment to fund Recycling Program

Summary: Up through June 30, 1995, the County had provided two recycling drop centers inside the City as part of the County's recycling program. Effective July 1, 1995, the County arranged their recycling program to include separation of recyclables at the source and collection taking place at the regular scheduled collection point. With these changes by the County, the City was left without a recycling program. In order to continue a recycling program for City residents, arrangements were made with ABC Recycling to continue collection of recyclables at the drop centers and to provide two additional drop centers in the City. ABC Recycling maintains the drop centers, keeps the drop centers clean, collects the recyclables as necessary, and sells the recyclables, with the City receiving 100% of the recyclable sales. Up through November of 1995, the monthly fee from ABC Recycling has averaged $8,632.78. Receipts from recyclable material sales has averaged $1,119.89 to the City per month for this same period. Funds to pay ABC Recycling have been taken from the Sanitation Division's budget but need to be replaced to insure sufficient funds for the remainder of the budget year for operating purposes. Sufficient funds to cover payments to ABC Recycling also need to be budgeted for the remainder of the year.

Public Works and Audit/Budget staff recommend that a budget amendment, in the amount of $105,000 to cover the cost of the City's Recycling Program.

Budget amendment to appropriate additional Fair Housing Assistance Program grant funds

Summary: On April 28, 1987, the City of Asheville was recognized by HUD as having a fair housing enforcement program which is substantially equivalent to that of the Federal Fair Housing Act. The City has been carrying out its fair housing program under contract with the A-B Community Relations Council and the Fair Housing Commission since 1988. In September 1995 the City received funding approval from HUD of $16,700 for the current Fair Housing Assistance Program. On January 29, 1996, the City was notified that an additional $25,940 will be received for the Fair Housing Assistance Program for the 9th year funding. The total funding for this program for the 9th year will now be $42,640.

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Budget amendment for the Asheville-Buncombe Arson Task Force Vehicle

Summary: City Council has previously established an appropriation of $5,000 as the City's share of the cost of a vehicle for the Arson Task Force. The Task Force has requested that the City purchase said vehicle at a cost not to exceed $44,000. The Task Force will reimburse the City for the total amount of $5,000. The City will serve as title-holder of the vehicle on behalf of the A-B Arson Task Force, and, share with Buncombe County the cost of insuring and maintaining the vehicle on behalf of the Task Force pursuant to the provisions of the joint exercise of power agreement that created the Task Force.

This action will establish a capital outlay appropriation for this vehicle and bids, when received, will be submitted to City Council for approval.

Budget amendment for transit funding

Summary: This budget amendment restores the City's funding of the Transit Authority from $794,180, as approved by City Council in June 1995, to the 1993 target level of funding of $813,485 - an increase of $19,305. This entitles the City to receive State Transit Maintenance Funds in the amount of $177,820. These funds are transferred to the Federal Projects Fund - Bus Transfer Facility Project to fund land acquisition, professional services, and demolition costs.

Contract to audit City accounts

Summary: G.S. 159-34 requires that local governments of N.C. to have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

In 1993 the local audit firm of Crisp Hughes & Co. won the bid for the City's audit with the option, dependent upon the quality of service, to be re-engaged annually for a period of three to five years. They performed the FY '93, FY '94 and the FY '95 audits and have now submitted an engagement letter for the FY '96 audit. The FY '96 audit fee has been estimated at, and limited to, $50,000. Funds are appropriated in the budget of the Accounting Division of the Finance Department.

Staff recommends reappointment of the audit firm Crisp Hughes & Co., L.L.P.

Reassignment of the state loan for a regional water transmission main

Summary: Bond counsel has recommended that it would be beneficial to the issuance of the $33 Million revenue bonds (for the Regional Water Resources Improvements Program) if a $3 Million State Loan awarded to the A-B Water Authority ("Authority") was reassigned to the City of Asheville.

In September of 1994, the Authority authorized staff to apply for a N.C. Clean Water Bond Loan to assist in financing a regional water transmission main that will serve the existing and future water supply needs of the region. In February of 1995, the Local Government Commission ("Commission") formally announced the award of a N.C. Clean Water Bond Loan to the Authority in the amount of $3 Million. The interest rate for this loan is 5.3%. Since the regional transmission main is an integral part of the Regional water Resources Improvements

Program, it is in the best interest of the City of Asheville to accept the loan rather than the Authority. The Commission concurs with reassignment of the loan.

Intent to close unnamed alley in between Atkins Avenue and Hendersonville Road

Summary: This action will be to set a public hearing on March 26, 1996.

Fire Code Amendments

Summary: In the course of its approval of the Asheville Fire Code, the N.C. State Building Code Council has asked that Asheville adopt the 1996 State Fire Code and make other technical amendments to the Asheville Fire Code.

On July 25, 1995, the City Council adopted a more streamlined fire code that incorporated provisions from Asheville's original fire code and the State Fire Code into one document. At the time of City Council's action, the State Fire Code in effect was the 1994 edition.

As part of the local fire code process in N.C., the N.C. State Building Code Council (through its Fire Code Committee) reviews fire codes like Asheville's. Asheville's fire code has undergone this review, and the State Building Code Council has asked that Asheville made amendments to Asheville's fire code, including: (1) formal adoption of the 1996 State Fire Code, which went into effect on January 1, 1996; (2) deletions and amendments to standards and definitions, including deletions and amendments that will make Asheville's fire code consistent with the 1996 edition of the State Fire Code; (3) technical and non-substantive amendments that will align Asheville's fire code with the 1996 edition of the State Fire Code; and (4) technical amendments to Chapter 4 (explosive permits), Chapter 17 (liquefied propane gas) and Appendix G (smoke detectors in rental property).

These amendments do not generally interfere with the integrity of the Asheville fire code. The amendments on regulation of smoke detectors in rental property are considerably less stringent than those that have been part of Asheville's fire code since the 1980's; however, recent changes in state law compel these amendments.

It was the consensus of Council to take appropriate actions at the next formal Council meeting.

INTEREST IN TOUR OF CITY FACILITIES

Assistant City Manager Spell, said that staff is interested in planning a Council tour of City facilities if the City Council is interested and feels that it would be beneficial. The tour could begin at 12:00 noon and include a pre-arranged lunch at one of the City facilities for the Council and staff attendees. The tour would likely take approximately five (5) hours including lunch. The City would arrange to have transportation for the tour of facilities.

If members of the City Council are interested in a tour of City facilities, staff has prepared a list of facilities and requests City Council choose five facilities which they would most prefer to visit and tour. From the information received from interested members of Council and the desired locations to be visited, staff will then select the most popular locations and arrange an agenda to be presented prior to the

tour of City facilities. Also, staff will evaluate the locations, time necessary to travel to the facilities, and time to tour each location.

After the list of sites is finalized and the interested Council members identified, staff will begin working with Council members to designate an afternoon in March or April, 1996, to arrange the tour of the City facilities.

Possible City facilities include: the North Fork Water Treatment Facility; Stephens-Lee Community Center; French Broad River Park (off Amboy Road); Civic Center; Public Works/Building Safety Facility; Police/Fire Municipal Building; Fleet Management Facility; Water Maintenance Facility; Central Asheville Resource Center (Montford area); City Development Office; Downtown Parking Garage; Fire Station #2 (315 Livingston Street); and the Asheville Regional Airport.

It was the consensus of Council to tour the facilities, once the sites are identified, on Tuesday, April 30, 1996, after lunch. The tour will end with dinner. Council will then proceed to their community meeting in the Oakley Community Center at 7:00 p.m.

DOWNTOWN COMMISSION VACANCY

It was the consensus of Council to postpone action on this vacancy until the quarterly appointments are initiated in April of 1996.

LEGISLATIVE ISSUES

City Manager Westbrook said that this item will conclude the items left to be discussed from the City Council Annual Retreat.

City Attorney Slawter said that the 1996 legislative session convenes on May 13, 1996, and is scheduled to adjourn on June 21, 1996. The deadline for submitting local bills to legislative drafting is May 22, 1996, and the deadline for introduction of local bills in either chamber is May 29, 1996.

He then summarized the City's 1995 legislative program stating that the following three issues were approved: (1) authorization for use of "Denver Boot"; (2) authorization for a process, to be used in connection with the demolition of dilapidated structures, whereby notice is given only once to owners and other parties in interest; and (3) same authority as other cities have to collect their own ad valorem taxes (instead of being required to have the county collect them). He then reviewed the four items that were not approved by the legislature.

He noted that if HB 220 (Outdoor Advertising/Just Compensation) is enacted, this bill would require a local government unit to make monetary payments to billboard owners if the unit passes a sign ordinance requiring nonconforming billboards and signs to be phased out over a period of time.

He briefed Council on three primary areas of concern that may come up in the 1996 legislative session coming from study commissions: (1) Extraterritorial Jurisdiction -- this includes such issues as permitting residents of a city's extraterritorial planning jurisdiction to vote in city council elections. It also includes prohibiting a city from extending its extraterritorial jurisdiction into a county other than the one containing its primary land area; (2) Annexation -- This topic includes the possibility of all sorts of limitations on cities' annexation authority, such as a return to the pre-1959 standards that

required referenda, or a requirement that a jury trial be held if requested by a petitioner challenging an annexation; and (3) Attorney Fees in Condemnation Cases -- This would require units of government to pay the attorney fees of the defendant in a court action for condemnation of property.

He said that the only specific request for local legislation that he has received at this point from staff is a request from Terry Summey that the Council seek an amendment to G.S. 87-14, so as to exempt Asheville from the requirement that before issuing a building permit to a contractor, the building inspector must verify that the contractor has paid the license tax required by the State Revenue Act and has workers' compensation insurance in effect.

He stated that he has received a request from the A-B Community Relations Council asking to be designated as a EEOC agency. This designation would allow them to have the same powers as the federal agency in Charlotte on a local level. In becoming a designated EEOC agency, they would be compensated for cases they investigate. Currently the compensation is $500 per case. They feel this compensation would enable them to stabilize their funding and decrease their dependency on the City and the County. They feel that in seeking this designation, the Community Relations Council can perform a greater service to the City and the County. City Attorney Slawter was concerned about the legal staff support necessary. It was the consensus of Council to (1) find out if the Buncombe County Commissioners have taken any action on this request, (2) contact other cities and counties to see how this has worked for them; and (3) attempt to get input from businesses on whether they feel a local EEOC agency might cause more complaints due to it being local.

City Attorney Slawter also said that he had recently received a letter from Wally Bowen regarding campaign finance reform. Mr. Bowen suggested that the City offer incentives to candidates who voluntarily reform, although Mr. Slawter was not aware of any legal authority for such incentives.

Councilman Skalski asked that we ask our local delegation to pursue some basic issues that come up, like term limits. He suggested limiting campaign spending and also raising Council salaries every two years in order to give people more access to serve on Council.

Vice-Mayor Field spoke in opposition to term limits. She suggested the City wait and see what the legislature does on campaign financing and then Asheville can respond.

Mr. Calvin Allen, representing the Committee for Campaign Finance Reform, asked Council to adopt a resolution urging the WNC legislative delegation to make campaign finance reform a priority in 1996, and to increase pay for Council members.

Vice-Mayor Field felt that campaign finance reform was not a priority for her. She felt that issues like education and crime would be a higher priority for the delegation to consider. She did, however, support Council's looking into a pay increase for future Councils, but that is something that the Council can do itself -- it doesn't have to ask the legislature. She suggested this item be brought up during budget deliberations.

City Attorney Slawter then reviewed with Council a memorandum related to changes that the Council may make itself in the form of government of the City.

When Councilman Hay asked if the present Council could change the method of election of City Council in 1997, City Attorney Slawter said that G.S. 160A-107 provides that amendments to the City Charter related to the method of election of Council members adopted pursuant to G.S. 160A-101, et seq. "shall continue in force for at least two years after the beginning of the term of office of the officers elected thereunder." The current Council was elected under the "nonpartisan primary and election" method authorized by G.S. 163-294, in accordance with Ordinance No. 2155 dated November 15, 1994, which so amended the City Charter. The current Council is the first Council elected pursuant to that method of election. Since the "beginning of the term of office" of the current Council was on December 5, 1995, it was his opinion that the current "nonpartisan primary and election" method of election of Council members must remain in place until at least December 5, 1997. Any desire on the part of the Council to change either to partisan elections or to another form of nonpartisan elections could thus not be accomplished by the Council in time to be effective for the 1997 election. The earliest election for which such a change could occur would be the 1999 City Council election.

Councilman Skalski presented a resolution for the NC Housing Trust Fund which encourages the local delegation to re-fund this trust fund in the amount of $2.5 Million. He asked that this be brought back to the Council in the legislative package.

It was the consensus of Council to have the City Attorney prepare a draft legislative package to bring back to Council consisting of the following proposals:

1. Same authority as other cities have to designate downtown area within which development projects may take place in accordance with G.S. 160A-458.3.

2. Exempt Asheville from the requirement that before issuing a building permit to a contractor, the building inspector must verify that the contractor has paid the license tax required by the State Revenue Act and has workers' compensation insurance in effect.

3. Authorization for increase in annual motor vehicle tax (currently $5) to up to $10.

4. Resolution urging the WNC legislative delegation to make campaign finance reform a priority in 1996.

5. Request from the A-B Community Relations Council to become a designated EEOC agency.

6. Resolution for the NC Housing Trust Fund which encourages the local delegation to re-fund this trust fund in the amount of $2.5 Million.

OTHER BUSINESS

It was the consensus of Council to begin their worksessions at 3:00 p.m. on the first and third Tuesday of every month, beginning on March 19, 1996.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:10 p.m.

Magdalen Bowlson
city clerk

mayor

Tuesday - February 27, 1996 - 5:00 p.m.

Regular Meeting

Present: Vice-Mayor Barbara Field, Presiding; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Mayor Russell M. Martin

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 96-35 - RESOLUTION IN MEMORY OF WILLIAM DEBRUHL

Councilman Worley, member of the Asheville-Buncombe Water Authority, read the resolution stating that William DeBruhl served as the Director of the Water and Sewer Services Department for the City of Asheville from 1977 until his retirement in 1985. In 1991, Mr. DeBruhl was appointed by the Buncombe County Commissioners to the Asheville-Buncombe Water Authority where he served on the Policies and Priorities Committee and the Watershed Committee.

Mr. DeBruhl generously contributed his time and talents in the ongoing analysis and solution of the water issues affecting this community. In 1981, he recommended to the City of Asheville and Asheville-Buncombe Water Authority that Bee Tree Lake be redeveloped as a source of water for our community, which subsequently occurred in 1987.

As a result of his dedicated service to the citizens of Asheville, Buncombe and Henderson Counties, the Asheville City Council hereby renames the Bee Tree Plant the "William DeBruhl Water Treatment Facility at Bee Tree Lake."

Councilman Worley presented the resolution to Mrs. DeBruhl and family members.

Councilman Worley moved to adopt Resolution No. 96-35. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 120

II. PUBLIC HEARINGS:

A. CONTINUATION OF A PUBLIC HEARING RELATIVE TO REZONING TWO LOTS AT 401 OLD COUNTY HOME ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

Vice-Mayor Field said that this public hearing was opened on January 9, 1996, and continued January 23, 1996, in order to give the other interested persons an opportunity to speak and also to give the Planning staff an opportunity to look at the uniqueness of this area and perhaps bring Council a different solution to the problem. The public hearing was then continued until this date in order to give both parties involved an opportunity to see if a compromise of the problem could be reached.

Mr. Cliff Parson, attorney representing the petitioner, said that they have meet with some area property owners but no compromise has been reached. He asked Council to considering tabling the matter for six months so that they can continue to search other means for compromise and also the UDO area plan hearing for the west part of the City will be held in late June and that may have an impact on this request.

Vice-Mayor Field asked if anyone from the neighborhood was opposed to Council continuing this matter for six months. When she heard no opposition, Councilman Cloninger moved to continue the public hearing until August 27, 1996, without further advertisement. This motion was seconded by Councilman Sellers and carried unanimously.

B. PUBLIC HEARING RELATIVE TO REZONING 21 PARCELS ON MARNE ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-1A RESIDENTIAL DISTRICT

ORDINANCE NO. 2258 - ORDINANCE TO REZONE 21 PARCELS ON MARNE ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-1A RESIDENTIAL DISTRICT

Vice-Mayor Field opened the public hearing at 5:09 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that residents of Marne Road petitioned for the rezoning of 21 lots on their street from R-2 to R-1A. The petition was signed by owners of 19 of the lots. The owner of the remaining two lots (James Morgan) is opposed to the rezoning. The two lots owned by Mr. Morgan are vacant; all the other lots are developed with single family homes. In presenting the request, the petitioners stated that they wished to protect the single family character of their neighborhood. They argued that the narrow streets (16' wide) and existing development patterns limit the potential for multi-family development. Mr. Morgan, who is opposed to the rezoning, argued that the rezoning would limit his development options and reduce his return on the property. The present R-2 zoning permits single family development and multi-family development up to six units per acre with a minimum lot size of 10,000 square feet. The requested R-1A zoning permits only single family development with a minimum lot size of 5,400 square feet. Certain related uses are permitted in each district.

The rezoning request was tabled twice by the Planning & Zoning Commission ("Commission") -- once, to give Mr. Morgan time to prepare for the hearing (since he had only received notice one day prior to the Commission hearing) and the other was to give staff time to research questions which arose regarding the following issues: (1) When was the area rezoned from R-3 to R-2? It was rezoned in February of 1982; (2) When did Mr. Morgan purchase the two lots at the end of the street? He purchased them in December of 1984; and (3) What is the width of the street right-of-way on Marne Road? The right-of-way is approximately 18' wide. Then, at their January 3, 1996, meeting, the Commission voted 4-3 to recommend that the request be denied. City staff recommended approval of the rezoning request.

Upon inquiry of Councilman Hay, Mr. Green said that if the two lots owned by Mr. Morgan were rezoned to R-1A, they would be big enough to build single family homes which would be consistent with the rest of the neighborhood. He said that the two lots could even be subdivided into three single family lots.

When Councilman Worley questioned why the Commission voted as it did, Mr. Green's recollection was that the opposing votes were concerned about the loss of the property value for Mr. Morgan. Ms. Jane Gianvito Mathews, City Council liaison for the Commission, also recalled that one commissioner expressed concern that it was unfair to Mr. Morgan to change the zoning from multi-family to single-family.

Mr. James Morgan, President of Nynopps, Inc., felt that this rezoning is nothing but a ploy to keep him from developing his property. He explained that he bought the property on the basis that it was zoned R-3 and multiple dwellings were allowed. Then when he tried to sell it, he found the zoning was changed to R-2 without them being notified. They then tried to sell again in 1994 and was told they didn't have the water and sewer available, so that sale fell through. The property is now under contract to be sold again and feels like the neighborhood is once again trying to stop the sale by this rezoning request. He had no objection with them rezoning their 19 lots to R-1A, but was very much opposed to them trying to rezone his two lots. He wants to be able to sell his property and get his money back out of it that he invested in it. He also noted that the rezoning petition was never presented to him.

Councilman Hay suggested that Mr. Morgan might be able to find someone to sell the property to that might want to build three single-family homes. Mr. Morgan said that no one has contacted him regarding that.

When Councilman Sellers noted that on the rezoning petition fact sheet it said that the site was being considered for the development of a family care home which is allowed in the R-1A district, Mr. Morgan responded that nothing is certain until the sale is closed.

When Vice-Mayor Field inquired about Mr. Morgan not being notified until the day of the Commission hearing, Mr. Green responded that notice was sent to the address, but there was no name associated with it. It was unfortunate that Mr. Morgan was out of town until the day of the Commission hearing.

Ms. Gianvito Mathews also reminded Council that one of the reasons why the Commission tabled action on the request was to give Mr. Morgan adequate time to prepare his remarks. She also said that there was concern by the Commission about property owners, like Mr. Morgan, getting misinformation from Buncombe County as to what the zoning of their area is. She felt there needed to be better coordination between the County, the City and real estate agents who are marketing the properties.

Mr. John Carroll, real estate agent speaking on behalf of Mr. Morgan, urged Council not to rezone Mr. Morgan's property to R-1A. When the area residents bought their property, it was with the understanding that the area was zoned for multi-family and it was priced with that understanding. Mr. Morgan wants to protect his potential property value in the event that the sale that he has now should not culminate. He wants to have the option of being able to build single-family or multi-family. He wants to protect his particular rights. He felt the rest of the neighborhood are welcome to do whatever they want to do with their own property, "but don't tread on him."

The following people in support of the rezoning of 21 lots on Marne Road to R-1A, for various reasons, some being, but not limited to: single-family residences are best suited for this neighborhood; Marne Road is a narrow, dead-end road serving only single-family residences;

all property owners along Marne Road have endorsed the petition except one non-resident; the residents in the area have worked hard to improve the quality of life in their neighborhood; Marne Road has a unique character and if multi-family homes were built at the end of Marne Road, that character would drastically change; property values of the 12 homes on Marne Road would probably decrease if six apartments were built at the end of the road; and this rezoning request is an example of the urgent need to remap and rezone the City under the UDO - this kind of controversy could be avoided if we had zoning designations that are not contrary to what is already built.

Mr. Richard Nantelle, President of the Coalition of Asheville Neighborhoods
Dr. Steve Davis, speaking on behalf of the Kenilworth Residents Association
Mr. Dudley Wilson, resident on Marne Road
Mr. Jeff Gundlach, 38 Duke Street
Ms. Val Lamberti, 4 Duke Street
Mr. Fred Martin, 11 Spring Park Road
Ms. Myra Fuller, resident on Cumberland Avenue
Mr. Peter Loewer, member of the Tree/Greenway Commission, Friends of the Library, the Botanical Gardens of Asheville and the State University of North Carolina Arboretum at Raleigh
Ms. Barbara Hodgson, 107 Evelyn Place

Vice-Mayor Field closed the public hearing at 5:49 p.m.

Vice-Mayor Field said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2258 to rezone 21 lots on Marne Road from R-2 Residential to R-1A Residential. This motion was seconded by Councilman Skalski.

Councilman Worley said that he has visited the area and has found that Marne Road is a very narrow road with no off-street parking for every house on the road. He felt this area is a single-family neighborhood and it should be zoned that way.

Councilman Cloninger that he felt Mr. Morgan would not have to live with the ramifications of an R-3 zone but the people who live on the street would. He did challenge Mr. Carroll's statement about the neighborhood not treading on Mr. Morgan. He felt that not treading on people is a two-way street. Mr. Morgan is asking the people who live in the neighborhood every day (who are concerned about the safety, additional traffic and parking) not to tread on his right to sell this property at perhaps a greater value. But, Mr. Morgan is willing to tread on them by allowing all of this to occur. He felt City Council should not be a part of fostering something that would have such an adverse impact on this neighborhood.

Councilman Skalski, resident of Kenilworth, spoke in support of the R-1A zoning emphasizing that developers shouldn't be allowed to build development in neighborhoods with no regard to good planning. He hoped that situations like this won't occur in the future with business and neighborhood involvement in the UDO.

Councilman Hay felt that Council will have to deal with more and more requests for R-1A designations until we get the UDO in place.

On a roll call vote of 6-0, Ordinance No. 2258 carried on its first and final reading.

C. **PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ALLOW RESIDENCES IN THE COMMERCIAL SERVICE DISTRICT USING R-3 MEDIUM DENSITY STANDARDS**

ORDINANCE NO. 2259 - ORDINANCE AMENDING THE ZONING ORDINANCE TO ALLOW RESIDENCES IN THE COMMERCIAL SERVICE DISTRICT USING R-3 MEDIUM DENSITY STANDARDS

Vice-Mayor Field opened the public hearing at 5:55 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that on January 7, 1996, the Planning & Zoning Commission ("Commission") voted 5-1 to recommend approval of a proposed amendment to the zoning ordinance which would allow residential uses as a permitted use in the Commercial Service District ("CS District"). The amendment would require residential uses in the CS District to meet the standards for residential uses established by the R-3 zoning district. Residential uses are not currently permitted in the CS District, although there are a number of grandfathered residential uses in this district. In order to construct additions to these residential uses or to expand them, the owners must request a rezoning. The proposed ordinance would permit mixed commercial-residential uses in the CS District. Residential uses are currently permitted in the other commercial districts (CH, CG and NC) if they meet R-3 standards.

The Planning staff recommended and the Commission, on a 5-1 vote) recommended approval of this request.

When Councilman Skalski asked what the reason was for the Commission member voting no, Councilman Worley (who was present at the Commission hearing) recalled that there was concern that if you allowed residential usage in some of these areas, residential usage could eventually get to the point where it would start clamoring for a change in the zoning to residential, thereby taking away from the commercial service area.

Upon inquiry of Councilman Skalski, Mr. Green said that a quick review of zoning ordinances from other cities revealed that residential uses are permitted in 90% of those cities in all commercial districts. Typically the industrial district is the only district in which residential uses are not permitted.

Councilman Hay asked if he had a conflict of interest since he owned property within the affected area. City Attorney Slawter said that with regard to a broad rezoning definition like this that is applicable throughout the City, the impact upon someone's ownership of property is so remote that he felt there would be no conflict of interest.

Mr. H. K. Edgerton felt there might be a noise ordinance problem.

Vice-Mayor Field, resident in the downtown area, validated Mr. Edgerton's comment about noise.

Vice-Mayor Field closed the public hearing at 6:07 p.m.

Vice-Mayor Field said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2259. This motion was seconded by Councilman Skalski.

On a roll call vote of 6-0, Ordinance No. 2259 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 271

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 96-36 - RESOLUTION ENCOURAGING THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS TO CONTINUE TO MAINTAIN THE WEST ASHEVILLE LIBRARY AT ITS CURRENT LOCATION

Councilman Sellers said that the public library serving the residents of West Asheville has been maintained at the same location on Haywood Road for many years. Consideration has been given to the relocation of the library to an alternate site in West Asheville. It is the consensus of the West Asheville community that the community will be best served by the continued maintenance of the library at its current location. The Buncombe County Board of Commissioners provides funding for the Asheville-Buncombe Library System and the City Council desires to express its support for the continued maintenance of the library at its current location in keeping with the wishes of the residents of West Asheville.

Councilman Sellers felt this was a good opportunity to show our joint effort of working with the County. He explained that the Erwin and Enka districts are wishing to have the library moved to their districts. West Asheville residents would love for them to have a library, but not at the expense of moving the one from Haywood Road. The library has been there since 1952 and it services the community well. If renovations take place, the 2,200 square feet library will expand to 6-9,000 square feet, bringing it up to current Codes, including the Americans with Disability Act.

Councilman Skalski noted that this is the only library in Buncombe County west of the French Broad River.

Councilman Worley also said that it is also the most heavily used library, other than the main library, in the system and it's his understanding that the majority of that usage comes from walk-up and bus traffic. He felt that was very significant in terms of where you locate the library and where the best place is to keep it.

Councilman Hay hoped that this resolution will show the County Commissioners that the City is serious about keeping the West Asheville Library where it is and the Council would like to do what it can to make it easy for them to keep the library on Haywood Road.

Mr. Stom Peterson, President of the West Asheville Business Association, spoke in full support of keeping the library at its present location.

Vice-Mayor Field said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Sellers moved for the adoption of Resolution No. 96-36. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 121

V. CONSENT:

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF CITY COUNCIL ANNUAL RETREAT BEGINNING FEBRUARY 2, 1996, THE REGULAR MEETING HELD ON FEBRUARY 13, 1996, AND THE WORKSESSION HELD ON FEBRUARY 20, 1996

B. RESOLUTION NO. 96-37 - RESOLUTION RELATIVE TO REASSIGNMENT OF THE STATE LOAN FOR A REGIONAL WATER TRANSMISSION LINE

Summary: Bond counsel has recommended that it would be beneficial to the issuance of the $33 Million revenue bonds (for the Regional Water Resources Improvements Program) if a $3 Million State Loan awarded to the A-B Water Authority ("Authority") was reassigned to the City of Asheville.

In September of 1994, the Authority authorized staff to apply for a N.C. Clean Water Bond Loan to assist in financing a regional water transmission main that will serve the existing and future water supply needs of the region. In February of 1995, the Local Government Commission ("Commission") formally announced the award of a N.C. Clean Water Bond Loan to the Authority in the amount of $3 Million. The interest rate for this loan is 5.3%. Since the regional transmission main is an integral part of the Regional water Resources Improvements Program, it is in the best interest of the City of Asheville to accept the loan rather than the Authority. The Commission concurs with reassignment of the loan.

RESOLUTION BOOK NO. 23 - PAGE 122

C. RESOLUTION NO. 96-38 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A DEED TO THE STATE OF NORTH CAROLINA FOR 8.31 ACRES OF LAND ADJACENT TO THE WNC AGRICULTURAL CENTER

Summary: The N.C. Dept. of Agriculture has, for some time, expressed interest in acquiring from the City a tract of approximately 15.65 acres located adjacent to the Agricultural Center. On March 30, 1993, the City Council adopted Resolution No. 93-44 authorizing the Mayor to sign an option for conveyance of 8.2 acres of the tract to the State for $225,500 ($27,500 per acre). The actual survey reflects 8.31 acres and a resulting purchase price of $228,525. The remainder of the 15.65 acres has been condemned by the N.C. Dept. of Agriculture and the City is being separately compensated for that property.

This property was purchased jointly by the City and the Federal Aviation Administration on a 50/50 basis. The FAA grant agreement requires that the proceeds of the sale be split 50/50 with the City being allowed to retain one-half of the proceeds and the remaining one-half of the proceeds being required to be put into an airport project at the Asheville Regional Airport.

This resolution authorizes the conveyance to the State of North Carolina of 8.31 acres adjacent to the WNC Agricultural Center for a purchase price of $228,525.

RESOLUTION BOOK NO. 23 - PAGE 126

D. RESOLUTION NO. 96-39 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CRISP, HUGHES & CO., L.L.P., FOR AUDITING SERVICES FOR FISCAL YEAR 1995-96

Summary: G.S. 159-34 requires that local governments of N.C. to have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

In 1993 the local audit firm of Crisp Hughes & Co. won the bid for the City's audit with the option, dependent upon the quality of service, to be re-engaged annually for a period of three to five years. They performed the FY '93, FY '94 and the FY '95 audits and have now submitted an engagement letter for the FY '96 audit. The FY '96 audit fee has been estimated at, and limited to, $50,000. Funds are appropriated in the budget of the Accounting Division of the Finance Department.

Staff recommends reappointment of the audit firm Crisp Hughes & Co., L.L.P.

RESOLUTION BOOK NO. 23 - PAGE 127

E. RESOLUTION NO. 96-40 - RESOLUTION ESTABLISHING THE ASHEVILLE BICENTENNIAL COMMITTEE

Summary: The City of Asheville will celebrate its 200th anniversary in 1997. This committee has been organized to coordinate events as well as promote the City's heritage during the bicentennial year. The committee has established six goals for the bicentennial: (1) Reacquaint Asheville residents with their cultural heritage; (2) Involve all Asheville neighborhoods in the celebration; (3) Create a map of historic sites, events and bicentennial opportunities; (4) Publish a bicentennial cultural calendar of events; (5) Establish a legacy program; and (6) Develop a vision project; the future through the past. In addition, the committee has come up with numerous event ideas including: (1) A. Douglas Ellington architectural exhibition; (2) lecture series; (3) Asheville film series; (4) bicentennial moments on radio and television; (5) "A Slice of History" children's program; (6) History Comes Alive; (7) children's float parade (Bele Chere); and (8) an updated City/County architectural survey.

RESOLUTION BOOK NO. 23 - PAGE 128

F. RESOLUTION NO. 96-41 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN UNNAMED ALLEY CONNECTING ATKINS AVENUE AND ARDEN AVENUE AND CALLING FOR A PUBLIC HEARING ON MARCH 26, 1996

RESOLUTION BOOK NO. 23 - PAGE 129

G. MOTION SETTING A PUBLIC HEARING ON MARCH 12, 1996, TO CONSIDER A STREET GRADE MODIFICATION REQUEST FOR BREAMAR SUBDIVISION

H. MOTION SETTING A PUBLIC HEARING ON MARCH 12, 1996, TO REZONE TWO LOTS LOCATED AT 619 GATEWOOD FROM R-5 RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

I. **MOTION SETTING A PUBLIC HEARING ON MARCH 12, 1996, TO REZONE TEN LOTS AT THE CORNER OF STATE STREET AND HANOVER STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT TO NC NEIGHBORHOOD COMMERCIAL**

Vice-Mayor Field said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Hay moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

Ordinances:

City Attorney Slawter said that the budget amendment relating to the transit facility will, among other things, authorize the purchase of the building located at 49 Coxe Avenue for $100,000.

A. **ORDINANCE NO. 2260- BUDGET AMENDMENT FOR THE CITY'S RECYCLING PROGRAM**

Summary: Up through June 30, 1995, the County had provided two recycling drop centers inside the City as part of the County's recycling program. Effective July 1, 1995, the County arranged their recycling program to include separation of recyclables at the source and collection taking place at the regular scheduled collection point. With these changes by the County, the City was left without a recycling program. In order to continue a recycling program for City residents, arrangements were made with ABC Recycling to continue collection of recyclables at the drop centers and to provide two additional drop centers in the City. ABC Recycling maintains the drop centers, keeps the drop centers clean, collects the recyclables as necessary, and sells the recyclables, with the City receiving 100% of the recyclable sales. Up through November of 1995, the monthly fee from ABC Recycling has averaged $8,632.78. Receipts from recyclable material sales has averaged $1,119.89 to the City per month for this same period. Funds to pay ABC Recycling have been taken from the Sanitation Division's budget but need to be replaced to insure sufficient funds for the remainder of the budget year for operating purposes. Sufficient funds to cover payments to ABC Recycling also need to be budgeted for the remainder of the year.

Public Works and Audit/Budget staff recommend that a budget amendment, in the amount of $105,000 to cover the cost of the City's Recycling Program.

ORDINANCE BOOK NO. 15 - PAGE 272

B. **ORDINANCE NO. 2261 - BUDGET AMENDMENT FOR ADDITIONAL FAIR HOUSING ASSISTANCE PROGRAM FUNDS**

Summary: On April 28, 1987, the City of Asheville was recognized by HUD as having a fair housing enforcement program which is substantially equivalent to that of the Federal Fair Housing Act. The City has been carrying out its fair housing program under contract with the A-B Community Relations Council and the Fair Housing Commission since 1988. In September 1995 the City received funding approval from HUD of $16,700 for the current Fair Housing Assistance Program. On January 29, 1996, the City was notified that an additional $25,940 will be received for the Fair Housing Assistance Program for the 9th year

funding. The total funding for this program for the 9th year will now be $42,640.

ORDINANCE BOOK NO. 15 - PAGE 274

C. ORDINANCE NO. 2262 - BUDGET AMENDMENT TO ALLOW THE CITY TO PURCHASE A VEHICLE ON BEHALF OF THE ASHEVILLE-BUNCOMBE ARSON TASK FORCE

Summary: City Council has previously established an appropriation of $5,000 as the City's share of the cost of a vehicle for the Arson Task Force. The Task Force has requested that the City purchase said vehicle at a cost not to exceed $44,000. The Task Force will reimburse the City for the total amount of $5,000. The City will serve as title-holder of the vehicle on behalf of the A-B Arson Task Force, and, share with Buncombe County the cost of insuring and maintaining the vehicle on behalf of the Task Force pursuant to the provisions of the joint exercise of power agreement that created the Task Force.

This action will establish a capital outlay appropriation for this vehicle and bids, when received, will be submitted to City Council for approval.

ORDINANCE BOOK NO. 15 - PAGE 276

D. ORDINANCE NO. 2263 - BUDGET AMENDMENT TO INCREASE TRANSIT FUNDING FOR THE OPERATING BUDGET AND TO INCREASE THE BUDGET FOR THE TRANSFER FACILITY PROJECT

Summary: This budget amendment restores the City's funding of the Transit Authority from $794,180, as approved by City Council in June 1995, to the 1993 target level of funding of $813,485 - an increase of $19,305. This entitles the City to receive State Transit Maintenance Funds in the amount of $177,820. These funds are transferred to the Federal Projects Fund - Bus Transfer Facility Project to fund land acquisition, professional services, and demolition costs.

The budget amendment will also authorize the purchase of the building located at 49 Coxe Avenue for $100,000.

ORDINANCE BOOK NO. 15 - PAGE 278

E. ORDINANCE NO. 2264 - ORDINANCE AMENDING THE CIVIL PENALTIES IN THE CODE OF ORDINANCES TO REFLECT THAT ALL FIRE LANE PARKING VIOLATIONS WILL BE IN THE AMOUNT OF $35.00

Summary: An amendment needs to be considered by City Council which would make all fire lane violation fees uniform. The City of Asheville currently has three fee amounts for fire lane violations. The Police Department issues fire lane violations in the amount of $25. Enforcement staff of Parking Service issues fire lane violations in the amount of $10 by authority set forth in Sections 19-14 and 19-137 of the City Code. The Fire Department issues a fire lane violation in the amount of $35 as set forth in the Fire Code adopted in July of 1995.

It is staff's recommendation to amend Appendix B of the City Code to include a $35 penalty for parking in a fire lane. This recommendation has been reviewed by the Police Department, Fire Department, City Attorney's Office and the Finance Department.

ORDINANCE BOOK NO. 15 - PAGE 280

F. ORDINANCE NO. 2265 - ORDINANCE AMENDING THE ASHEVILLE FIRE CODE BY ADOPTING THE 1996 STATE FIRE CODE AND MAKING OTHER TECHNICAL AMENDMENTS TO THE ASHEVILLE'S FIRE CODE

Summary: In the course of its approval of the Asheville Fire Code, the N.C. State Building Code Council has asked that Asheville adopt the 1996 State Fire Code and make other technical amendments to the Asheville Fire Code.

On July 25, 1995, the City Council adopted a more streamlined fire code that incorporated provisions from Asheville's original fire code and the State Fire Code into one document. At the time of City Council's action. the State Fire Code in effect was the 1994 edition.

As part of the local fire code process in N.C., the N.C. State Building Code Council (through its Fire Code Committee) reviews fire codes like Asheville's. Asheville's fire code has undergone this review, and the State Building Code Council has asked that Asheville made amendments to Asheville's fire code, including: (1) formal adoption of the 1996 State Fire Code, which went into effect on January 1, 1996; (2) deletions and amendments to standards and definitions, including deletions and amendments that will make Asheville's fire code consistent with the 1996 edition of the State Fire Code; (3) technical and non-substantive amendments that will align Asheville's fire code with the 1996 edition of the State Fire Code; and (4) technical amendments to Chapter 4 (explosive permits), Chapter 17 (liquefied propane gas) and Appendix G (smoke detectors in rental property).

These amendments do not generally interfere with the integrity of the Asheville fire code. The amendments on regulation of smoke detectors in rental property are considerably less stringent than those that have been part of Asheville's fire code since the 1980's; however, recent changes in state law compel these amendments.

ORDINANCE BOOK NO. 15 - PAGE 283

Vice-Mayor Field said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Cloninger.

On a roll call vote of 6-0, the Ordinance Consent Agenda was adopted on the first and final reading.

VI. OTHER BUSINESS:

A. PRE-COUNCIL MINUTES OF FEBRUARY 13, 1996

Councilman Skalski asked the Pre-Council minutes of February 13, 1996, read that Council voted separately on the three Board of Adjustment vacancies. He said that he voted in favor of appointing Joseph Brady as an alternate member and also appointing Dennis Hodgson as a regular member. He asked that his vote against reappointment of Bud Taylor be explained in the minutes. Keeping in mind that he was not against having a real estate person or a developer on the Board of Adjustment, (because he realized that business people need to be represented on all the City's boards and commissions) the reason that he voted against Bud Taylor's reappointment was (and he felt Mr. Taylor was one of the better business members on the Board) that he felt there were already five realtor/developer oriented people on the Board.

B. COMMENTS BY H.K. EDGERTON RELATIVE TO LEGISLATIVE ISSUES

Mr. H. K. Edgerton asked Council to consider the following when preparing their legislative package to the local delegation: (1) How, or can, the NAACP or other organizations within the City propose legislation that will allow the City or County to enter into joint ventures with private enterprise for economic development projects. City Attorney Slawter said that if the NAACP or any group has specific legislation that they wanted to encourage the local delegation to introduce during the Short Session, any organization can communicate that to the local delegation. City Manager Westbrook went on further to explain that the legislation the City Council has chosen to seek would give the same authority to Asheville as other cities have to designate the downtown area within which development projects may take place. (2) Amnesty Day for people who have petty charges and petty crimes. City Attorney Slawter felt the City Council did not have the authority to do that and if anybody could, it would be the legislature. (3) In thinking about how we provide housing in Asheville, hoped Council would re-think the sale of the Murray Hill Park property and what's being proposed. We need to mix our senior citizens with youth in housing.

C. AMNESTY DAY

Mr. Chris Johansen felt the Amnesty Day might be worth pursuing. He suggested contacting the Institute of Government to see what they might know about that topic.

D. CLAIMS

The following claims were received by the City of Asheville during the week of February 9-15, 1996: Pat Ellzey (Streets), William Williams (Streets), Garland Roberts (Water), Robert Goins (Sanitation), Cassandra A. Benton (Water) and Bill Title (Water).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Vice-Mayor Field adjourned the meeting at 6:30 p.m.

Magdalen Bradley
CITY CLERK

MAYOR

Tuesday - March 5, 1996 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

FIVE-YEAR AGING PLAN

Mr. Cleve Mathews, Past Chair of the Aging Coordinating Consortium Steering Committee, said that the Buncombe County Board of Commissioners have approved an updated five-year aging plan for Buncombe County. This plan provides the guidelines for allocating funds to meet the needs of the elderly and for setting policies that affect them. Naturally the plan affects residents of Asheville.

He outlined the 1995-2000 strategic plan priority goals, those being: (1) to make essential transportation services available to all the elderly who need them; (2) to develop a comprehensive communications/education program on aging issues; (3) to expand and augment public and private programs of in-home services; (4) to insure that volunteers are used effectively to aid in providing services for the elderly; (5) to strengthen housing and related programs which enable independent living for the elderly population; and (6) to prepare for a quick response to sudden new demands for such services as adult day/adult day health care.

He then briefed Council on the impacts that the goals would have for the City. (1) Transportation. Money for medical transportation ran out and had to be supplemented by the County. Most of this transportation is handled by the BOOST system, but the transit system of Asheville is also important to the elderly. (2) Information about Services. The City's centers that serve the elderly for recreation and meal sites are key spots for improving information about services to the elderly. Those centers will feel the pressure from the increasing numbers of older adults. (3) Volunteers. There needs to be better coordination of the various volunteer programs and better orientation of volunteers about the variety of services available to the elderly. Continuing financial constraints will impel the City to consider greater use of volunteers. (4) In-Home care. Even though the funding is not the responsibility of the City, when such care helps more elderly people continue to live at home, that impacts on police and fire services, traffic, access to shopping and demands for improving sidewalks and streets. (5) Housing - Since most older people want to live at home instead of in nursing homes or group homes, this increases the need for remodeling homes to handle wheel chairs, make access easier, and make living easier. When the elderly can no longer live on their own, but are not ready for nursing homes, they will turn to group homes. There will be a need to start a communication program about group homes in order to educate the neighborhood. This education program should also include information on locating day care facilities for older adults.

Mr. Mathews, and others, answered various questions from Council as they related to state cuts for transportation; health care providers; and since the number of older people are growing, will the number of younger people decline.

Mayor Martin, who started a program in which he recognizes citizens reaching 100, said that he was glad that these problems are being addressed now and hopefully, with proper planning, some can be avoided in the future.

Vice-Mayor Field emphasized that housing is very important issue and feels like there are several items that the Council can work with the County Commissioners on.

AFFORDABLE HOUSING PRESENTATION

Ms. Beth Maczka, Executive Director of the Affordable Housing Coalition, stated that the Affordable Housing Coalition's mission is to use the talents and resources of the Coalition member agencies and the Asheville-Buncombe community in promoting a wide range of affordable housing options which lead to thriving, safe neighborhoods and individual and family self-sufficiency. She then explained what affordable housing was, who is in need of decent, safe and sanitary housing, and what the benefits are of investing in affordable housing. She stressed the need for affordable housing is great and it will only grow. She thanked City Council for their support and hoped that Council will continue to recognize this need.

Upon inquiry of Vice-Mayor Field, Ms. Maczka explained that two studies are in progress - one regarding the number of homeless in shelters and the number of homeless on the streets and the other being housing preferences for people with special needs.

When Councilman Skalski asked if the Affordable Housing Coalition would be willing to do a presentation similar to this for the Coalition of Asheville Neighborhoods, Ms. Maczka indicated that they are scheduled to do one in April.

FLUSHING PROGRAM

Mr. Mike Holcombe, Water Resources Director, familiarized City Council with the planned water system flushing and its impact on residential and commercial water customers in Asheville and Buncombe County.

He said the water system has not been flushed in over 15 years and as a result, years of accumulated sand and sediment results in muddy water to customers when a water line breaks or has to be shut down. It's now time to clean the system under controlled conditions in order improve water quality. This will be done in two phases. First the main lines will be cleaned during the third and fourth weekends in March. Then on April 1st, flushing of smaller lines will begin and continue for 6 weeks.

The Management Flushing Team has worked for more than a year to minimize the effects of the upcoming flushing. An aggressive advertising and public education program developed by the team is now underway to give water customers the facts about flushing and help them prepare for the event.

He felt this presentation would prepare the Council to answer questions and offer suggestions for minimizing the effects of the flushing on City residents.

When Vice-Mayor Field inquired on why the City waited so long to flush their lines, Mr. Holcombe felt that perhaps prior administrations didn't have the knowledge of just how essential flushing of the lines

were for good water quality and also at that time there wasn't sufficient hydraulic capacity.

Upon inquiry of Vice-Mayor Field about if there will be a rebate on the water bill, Mr. Holcombe replied that the question was brought to the attention of the Asheville-Buncombe Water Authority. The decision was that there would be no rebate; however, the Authority felt that since citizens would not be using the water during those weekends, their water bills would be lower.

Councilman Cloninger commended City staff for their work on this program and felt the Grove Park Inn should be commended for their offered assistance.

Upon inquiry of Councilman Cloninger about the type of feedback the City is getting from restaurants and hotels about the flushing, Mr. Holcombe replied that by and large, there is tremendous support - a lot due to the fact that the City has given them several months advance notice.

When Mr. H.K. Edgerton inquired about the cost of this program, Mr. Holcombe said that combined advertising and operational costs will exceed $100,000. All expenses are budgeted for and will be paid from the bills that the water customers pay.

REQUEST FROM GERBER CONCERNING CITY'S PARTICIPATION IN SEWER LINE UPGRADE

Mr. Doug Spell, Assistant City Manager, said that in October of 1995, Gerber Products of Asheville sent a formal request to the City for assistance with sewer line improvements. The request was that the City construct sewer line improvements (public) necessitated by and in conjunction with other waste water system improvements (private) being conducted by Gerber. The public improvements which the City is being asked to assist with will become part of the Metropolitan Sewerage District system. The estimated cost of these infrastructure improvements is $36,500. Buncombe County has been asked to participate in the funding of these improvements. The County staff will recommend to the Commissioners that the County pay for half of the improvements with the expectation that the City would pay for the other half. The total cost to the City would be $18,250.

Mayor Martin read a letter dated February 27, 1996, from Mike Eisenlohr, Vice President and General Manager of Care-Free Windows, which updated Council on the progress of their goals. The letter read in part "Sales increased by 46% over 1994 and this successful year provided a needed basis from which to expand our outlook for 1996. We spent $600M on capital improvements during 1995. In addition, we hired 24 people for production during the year. We also utilized 24 temporary employees during our peak season from September through November. As you may recall, we started the year with 100 employees in the company. Of the 24 new hires we have had a turnover of 8 netting to 16 new employees. There were also increases in the office which resulted in total staffing of 122 employees. Two new product lies were introduced in 1995 and accounted for most all our sales growth. During 1996 we will be introducing two additional lines and as with 1995 we project these introductions to comprise the greatest share of our new sales growth. Our plans for 1996 include capital spending of $2.4MM and a sales increase of 64% over 1995. Expected new hires will be 72 this year of which 30 will likely be temporary employees to cover the higher seasonal demand. This would bring our peak factory employment of 188 employees with an additional office sales staff of 43 making total

employment reach 231 employees." Mayor Martin said that this is a success story resulting from the City's assistance.

It was the consensus of Council to proceed with appropriate action to set a public hearing at the next formal meeting.

DISCUSSION OF NEXT JOINT CITY/COUNTY MEETING

City Manager Westbrook said that the Buncombe County Commissioners have suggested either April 16 or April 23 as the dates they would prefer for the next City/County joint meeting.

A letter received from County Manager Bill McElrath states that since there are many City/County cooperation issues, the Council and the Board will have the opportunity to discuss and even jointly approve or disapprove these issue.

City Manager Westbrook said that the City will be the host of this meeting and even though there is not a set agenda at this time, he felt the general topic would be the areas of cooperation between the City and the County.

It was the consensus of Council to have the next joint City/County meeting on Tuesday, April 16, 1996. The time will be coordinated between the City and County Managers.

COMMENT:

Quarterly Minority Business Report

Summary: This report is for the quarter ending December 31, 1995, for the certified vendors only and for all vendors claiming minority status for certified and non-certified.

Mr. Larry Fisher, Finance Director, answered various questions from Council stating that the numbers in this quarter have improved over the previous quarter, reflecting most improvements are in the reporting process. They are also trying to track efforts made to use minority businesses as well. The Minority Business Commission Chair has suggested a retreat to focus on better ways to accomplish their goals. The retreat will be at a minority site and will utilize minority businesses.

Councilman Worley suggested that the Commission hold their retreat with reporting back to the City Council in mind. Then, after the retreat, the Council can schedule a worksession to discuss items coming out of that retreat.

Ms. Marilyn Bass, Minority Business Coordinator, responded to questions from Vice-Mayor Field regarding goals and how those goals were arrived at for the disparity study.

Mr. H. K. Edgerton stated concerns of the Minority Business Commission makeup.

Mayor Martin stressed that the City Council is committed to make improvements related to this program.

Award of bids to purchase vehicle for the Asheville-Buncombe Arson Task Force

Summary: Sealed bids were received to furnish one 1-ton commercial 4-wheel drive cutaway van for the Fire Department, Arson Task Force. Two bids were received. Staff recommends that the award be made to the low bidder, Matthews Ford, Asheville, N.C., in the amount of $39,702 for the purchase of one 1996 Ford E350 cab and chassis with a Reading FV74-148AP body. The following bids were received:

Vendor	Net Cost
Matthews Ford, Asheville, N.C.	$39,702
Parkway Chevrolet, Asheville, N.C.	$41,894

Funds for this purchase are appropriated in Account Code 20-420-40-475-00-5741.

Establish Fair Reuse Value for Certain Disposal Parcels in the East Riverside Redevelopment Project

Summary: Certain disposal parcels in East Riverside have been appraised, the appraisals reviewed and it is necessary to establish the Fair Reuse Value in order to market the property.

The disposal parcels are located in the area formerly known as the Clingman Avenue/Valley Street Connector right-of-way. Consisting of two tracts and comprising approximately 2.4 acres. The Connector right-of-way has been subdivided into seven commercial and two residential parcels.

Each disposal parcel was appraised by David Moore, MAI. The appraisals were reviewed by Francis Naeger, MAI, who concurred and recommended the appraised values as the Fair Reuse Values.

The disposal parcels and fair reuse values are as follows: 1A - $79,400; 2A - $16,850; 2B - $117,400; 3A - $3,600; 3B - $4,665; 4A - $16,852; 4B - $12,730; 50A - $6,181; and 52A - $5,394.

It was the consensus of Council to proceed with appropriate actions on the Consent Agenda at the next formal meeting.

OTHER BUSINESS:

YMI Cultural Center

Mayor Martin appointed Vice-Mayor Field and Councilmen Hay and Skalski to review information received by Mr. L.C. Ray regarding the YMI Cultural Center. Vice-Mayor Field said that after the committee reviews the request, they will contact him.

Chamber of Commerce

It was the consensus of Council to invite Mr. Ernest Ferguson and Mr. Jay Garner from the Chamber of Commerce, to meet with City Council at a worksession. The Chamber has some ideas about how to bring the City back "into the fold" regarding economic development, since it chose not to participate in the Economic Development Commission. City Manager Westbrook said that he would contact the Chamber in order to receive some factual information that staff could work on prior to meeting with the Chamber representatives.

Outward Bound

It was the consensus of Council to schedule the Outward Bound program on May 10-12, 1996.

Big South Conference

Mayor Martin announced that the City would bid to host the 1997 and possibly the 1998 Big South Conference Men's and Women's Basketball Tournament which would be held on four consecutive days.

CLOSED SESSION

At 5:10 p.m., Councilman Worley moved to go into closed session as authorized by G.S. 143-318.11 (a) (6) to consider the performance of an individual officer or employee. This motion was seconded by Councilman Sellers and carried unanimously.

At 5:40 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:40 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - March 12, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman James J. Skalski

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF MARCH 18-24, 1996, AS "VOLLEYBALL WEEK"

Mayor Martin proclaimed the week of March 18-24, 1996, as "Volleyball Week" in the City of Asheville. He presented the proclamation to Mr. Jeff Joyce, the City's Athletic Director, who briefed the Council on some activities that would be taking place during the week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CLOSING AN UNNAMED ALLEY RUNNING NORTHERLY OFF OF COLEMAN AVENUE

RESOLUTION NO. 96-42 - RESOLUTION TO CLOSE AN UNNAMED ALLEY RUNNING NORTHERLY OFF OF COLEMAN AVENUE

Mayor Martin opened the public hearing at 5:07 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Public Works Director Mark Combs said that a petition has been received from Victor K. Shealy, Patricia K. Shealy, George M. Hill and Gwendolyn T. Hill, property owners along an unnamed alley running off of Coleman Avenue, requesting that this alley be permanently closed to public use.

The petition received includes the signatures of all property owners adjoining the portion of the unnamed alley being petitioned for closing, with the exception of the City of Asheville. No property owner in the area would be deprived of reasonable means of ingress and egress from their property.

The City of Asheville does not need to retain any easement in connection with this closing.

The Public Works Department staff recommends the petition to close the portion of unnamed alley running northerly off of Coleman Avenue be approved.

Mayor Martin closed the public hearing at 5:09 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-42. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 130

B. PUBLIC HEARING TO REZONE TEN LOTS AT THE CORNER OF STATE STREET AND HANOVER STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL TO NC NEIGHBORHOOD COMMERCIAL

ORDINANCE NO. 2266 - ORDINANCE TO REZONE TEN LOTS AT THE CORNER OF STATE STREET AND HANOVER STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL TO NC NEIGHBORHOOD COMMERCIAL

Mayor Martin opened the public hearing at 5:10 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that the subject properties are approximately five acres. The 14 lots are located at the intersection of State & Hanover Streets. The 14 lots contain 10 residential structures and one commercial structure. Four of the lots are currently vacant. The 2010 Plan recommends this area be low density residential along both sides of State Street near the intersection. The subject properties are surrounded on all sides by residential with the Pisgah View Apartments immediately to the south.

The Planning staff reviewed the rezoning request and recommended approval of just 10 of the lots and deny rezoning of the other four. The lots recommended for rezoning to NC are 9638-14-41-7807, 7915, 8748, 8853, 8918, 8965, 9864, 9913 and 9638-18-42-5090 and 6161. The four lots denied for rezoning are 9638-18-41-7665, 8654, 8742 and 9675. At the Commission's February 7, 1996, meeting, they voted 4-2 to recommend approval of the rezoning of the 10 lots.

Since the rezoning petition for the area at the intersection of State & Hanover Streets included 14 lots and the Commission recommended approval of the rezoning of 10 lots, requirements dictate that the City notify the owners of the four lots that their request for rezoning was denied and give them the opportunity to appeal to City Council. Mr. Hector Contreras (petitioner) was notified on February 14 and Mr. Contreras stated that Mr. Clay Jones (who spoke at the Commission hearing) and his family owned the lots and they did not have any preference as to which way their lots were zoned. They only signed the petition to assist Mr. Contreras in his request. Mr. Contreras assured City staff that the Jones' would not appeal the Commission's denial of their four lots.

Upon of Vice-Mayor Field, Mr. Ownbey responded that the rezoning of the 10 lots would not be considered illegal spot zoning.

Mr. Hector Contreras said that he is requesting this rezoning in order to expand his business so he can provide the service the community deserves and needs.

Upon inquiry of Vice-Mayor Field on why the other four lots were denied rezoning, Mr. Ownbey said that they didn't want any commercial intrusion into the prime residential neighborhood which contains Pisgah

View Apartments, and it was suggested that the four vacant lots not recommended for rezoning could serve as a buffer to the residential neighborhood.

When Councilman Hay inquired why the other side of the street was requesting to be rezoned, Ms. Bonnie Contreras speculated that the people owning the property across the street have had it up for sale, but considering where the location is, it wouldn't be desirable for people to buy an empty lot so close to Pisgah View Apartments. She then speculated if the other side was rezoned, it might be more desirable for someone to come in and perhaps build something that would complement their business.

Councilman Worley spoke in support of rezoning the ten lots stating that there is a decline of small neighborhood stores and this type of store is very desirable for a neighborhood.

Mr. Richard Nantelle supported the rezoning of the ten lots stating that the store proposed to be expanded is a focal point in that community and it is a benefit to the neighborhood as well as Pisgah View Apartments.

Ms. Johnice spoke in support of this rezoning and felt that the Contreras' store has served a valuable need in the community.

Mayor Martin closed the public hearing at 5:23 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2266. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2266 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE

C. PUBLIC HEARING TO REZONE TWO LOTS AT 619 GATEWOOD ROAD FROM R-5 RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

Mayor Martin opened the public hearing at 5:24 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that the subject property is two lots at the corner of Gatewood Road and Emma Road. The two lots contain one residential structure and one dilapidated barn. The 2010 Plan recommends that this area be low density residential along Emma Road. Even though the character of the area has changed to high density residential, this particular rezoning would allow industrial intrusion into this high density residential neighborhood. The subject property is surrounded on three sides by residential and there is industrial property to the immediate south.

The Planing staff reviewed the request and recommended denial of the rezoning to LI Light Industrial. At the Planning & Zoning Commission's meeting on February 7, 1996, the Commission voted unanimously to recommend denial of the rezoning request.

On February 20, 1996, the petitioner appealed the Commission's decision to the City Council.

Mr. James Woody, petitioner, urged Council to rezone his two lots to Light Industrial. He said that when he bought the two lots over 15 years ago, they were not zoned. He is now retired and has recently paid the lots off. He now would like to build on them. He felt that anything he does to the lots will improve the neighborhood.

Councilman Sellers said that he has visited the property in question and feels there is a fair amount of industrial development in the area. He didn't think the rezoning would have that much affect on the property up Gatewood Road and therefore stated that he supported the requested rezoning to Light Industrial.

Mr. Tad Wright, resident of 599 Emma Road, passed out pictures of the industrial development on Emma Road, one which shows that his house is directly across the street from a junkyard. He stressed to Council to remember that there are many things that are allowed in the Light Industrial zone, not just what Mr. Woody plans. He urged Council to deny the requested rezoning.

Mayor Martin closed the public hearing at 5:31 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Sellers moved to rezone the two lots at 619 Gatewood Road from R-3 to LI. This motion failed due to a lack of a second.

Councilman Cloninger moved to deny rezoning the two lots at 619 Gatewood Road from R-3 to LI. This motion was seconded by Councilman Hay and carried on a voice vote of 5-1, with Councilman Sellers voting "no".

Vice-Mayor Field suggested Mr. Wright contact the Planning Department to see if the junkyard across the street from his residence is in violation of our zoning ordinance.

D. PUBLIC HEARING TO CONSIDER A STREET GRADE MODIFICATION REQUEST FOR BREAMAR SUBDIVISION

Mayor Martin announced that on February 29, 1996, Mr. Kenneth O. Pankow sent a letter to Ms. Patty Joyce stating that "the preliminary plans for Braemar Subdivision, Developer Dean Fender, has been temporarily withdrawn." Therefore, this public hearing is not required.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 27, 1996, AND THE WORKSESSION HELD ON MARCH 5, 1996

B. RESOLUTION NO. 96-43 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 6A OF THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

Summary: The bid of Montford Partners in the amount of $69,250 for the purchase of Disposal Parcel 6A in the Head of Montford Redevelopment Project is not less than the established minimum price of $69,250. Disposal Parcel 6A is a CG Commercial General lot at the corner of Montford Avenue and Cherry Street comprising 12,595 square feet. The bid from Montford Partners for Disposal Parcel 6A includes the proposal to build a two story commercial building containing a total gross building area of 4,610 square feet, for retail and office space at an anticipated cost of $245,000. Montford Partners consists of Frank S. Smith, Canie B. Smith, and Dr. Charles T. Rowe. This bid has been properly advertised and no upset bid has been received.

RESOLUTION BOOK NO. 23 - PAGE 132

C. RESOLUTION NO. 96-44 - RESOLUTION RECOMMENDING AWARD OF BIDS TO PURCHASE ASHEVILLE-BUNCOMBE ARSON TASK FORCE VEHICLE

Summary: Sealed bids were received to furnish one 1-ton commercial 4-wheel drive cutaway van for the Fire Department, Arson Task Force. Two bids were received. Staff recommends that the award be made to the low bidder, Matthews Ford, Asheville, N.C., in the amount of $39,702 for the purchase of one 1996 Ford E350 cab and chassis with a Reading FV74-148AP body. The following bids were received:

Vendor	Net Cost
Matthews Ford, Asheville, N.C.	$39,702
Parkway Chevrolet, Asheville, N.C.	$41,894

Funds for this purchase are appropriated in Account Code 20-420-40-475-00-5741.

RESOLUTION BOOK NO. 23 - PAGE 133

D. RESOLUTION NO. 96-45 - RESOLUTION ESTABLISHING FAIR REUSE VALUE FOR CERTAIN DISPOSAL PARCELS IN THE EAST RIVERSIDE REDEVELOPMENT PROJECT

Summary: Certain disposal parcels in East Riverside have been appraised, the appraisals reviewed and it is necessary to establish the Fair Reuse Value in order to market the property.

The disposal parcels are located in the area formerly known as the Clingman Avenue/Valley Street Connector right-of-way. Consisting of two tracts and comprising approximately 2.4 acres. The Connector right-of-way has been subdivided into seven commercial and two residential parcels.

Each disposal parcel was appraised by David Moore, MAI. The appraisals were reviewed by Francis Naeger, MAI, who concurred and recommended the appraised values as the Fair Reuse Values.

The disposal parcels and fair reuse values are as follows: 1A - $79,400; 2A - $16,850; 2B - $117,400; 3A - $3,600; 3B - $4,665; 4A - $16,852; 4B - $12,730; 50A - $6,181; and 52A - $5,394.

RESOLUTION BOOK NO. 23 - PAGE 135

E. MOTION SETTING A PUBLIC HEARING ON MARCH 26, 1996, REGARDING CITY PARTICIPATION IN SEWER LINE UPGRADE PROJECT OF GERBER PRODUCTS OF ASHEVILLE

F. MOTION SETTING A PUBLIC HEARING ON MARCH 26, 1996, TO REZONE 25 LOTS IN THE VINEWOOD CIRCLE/KENWOOD STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL

G. MOTION SETTING A PUBLIC HEARING ON MARCH 26, 1996, RELATIVE TO A VARIANCE REQUEST FOR WOLFE COVE ROAD SUBDIVISION

H. MOTION SETTING A PUBLIC HEARING ON MARCH 26, 1996, TO CONSIDER A WORDING AMENDMENT TO THE ZONING ORDINANCE IN THE OFFICE INSTITUTIONAL DISTRICT STANDARDS TO IDENTIFY OUTDOOR RECREATIONAL USES AS A PERMITTED USE

I. MOTION SETTING A PUBLIC HEARING ON MARCH 26, 1996, TO REZONE 105 LOTS IN THE MORNINGSIDE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A, SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

J. MOTION SETTING A PUBLIC HEARING ON MARCH 26, 1996, TO REZONE ALL OR A PORTION OF THE PROPERTIES LOCATED IN THE HAW CREEK AREA WHICH ARE ZONED R-3 MEDIUM DENSITY RESIDENTIAL TO EITHER R-2 LOW DENSITY RESIDENTIAL, R-1A SINGLE FAMILY MODERATE DENSITY RESIDENTIAL OR R-1 SINGLE FAMILY RESIDENTIAL

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved to approve the Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission on March 6, 1996:

Biltmore Town Centre' (Food Lion) at 1856 Hendersonville Road

Mr. Gerald Green, Senior Planner, said that the City has received a request to allow a Food Lion strip mall development on Hendersonville Road. Biltmore Town Center will consist of the aforementioned Food Lion (38,000 sq. ft.) and four other smaller retail shops, totaling 13,200 sq. ft., for a total of 51,200 sq. ft. of buildng - Phase One only. The property is zoned Heavy Industrial and access is provided by two entrances off Hendersonville Road and by one access point off Mills Gap Road. The site plan meets all development requirements for HI zoning. Adequate parking has been provided and the developer has met all landscape requirements. A sidewalk was requested by traffic engineering, but this request was denied.

At their March 7, 1996, meeting, the Commission unanimously recommended approval to City Council with no conditions. He noted that the Commission did pass a resolution which will be forwarded to City Council requesting that Council work with staff to develop a policy on

the provision of sidewalks for all developments in the City. He also said that there is a policy in the draft Unified Development Ordinance for sidewalks to be developed as part of new developments.

Mr. Green then responded to questions regarding the sidewalk request. He said the sidewalk request would be along Hendersonville Road in front of the development. All Hendersonville Road has been upgraded and the existing capacity of Hendersonville Road will more than accommodate this development.

When Vice-Mayor Field asked if there was a landscaping plan, Mr. Green responded that there is and that the developer is exceeding those requirements.

Vice-Mayor Field then wondered if there was space at that location if the City, in the future, decided to build a sidewalk. Mr. Clay Mooney, landscape architect for the project, explained that from the back of the curb to the right-of-way line, there is only 7-1/2 feet and if we put a 5 foot sidewalk in, that only leaves a 2 foot wide green strip between the sidewalk and Hendersonville Road. They felt this would basically be a sidewalk from nowhere to nowhere. There is nothing in either direction and the nearest residential area is 3/4's of a mile away. He noted that he has landscaping that actually goes into the N.C. Dept. of Transportation's right-of-way.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

B. NC LEAGUE OF CITIES CONGRESSIONAL CONFERENCE

Vice-Mayor Field and Councilman Worley gave a report to City Council on their recent trip to Washington, D.C., to attend the NC League of Cities Congressional Conference. They noted that Councilman Skalski is still at the conference.

C. UNITY IN DIVERSITY DAY

At the request of Ms. Johnice, Mayor Martin proclaimed Wednesday, March 20, 1996, as "Unity in Diversity Day" in the City of Asheville. Ms. Johnice briefed the Council on activities that would be taking place that day and invited all Council to attend.

D. BICENTENNIAL COMMITTEE

Mayor Martin invited Council and the public to attend a community-wide meeting of the Mayor's Bicentennial Committee. The meeting will be held on Thursday, March 28, 1996, at 7:00 p.m. in the Banquet Room of the Asheville Civic Center.

E. COMMENTS BY MR. H.K. EDGERTON

Upon inquiry of Mr. H.K. Edgerton about the City's response to the YMI Cultural Center's financial request, Vice-Mayor Field said that staff has reviewed the information and the Committee will be meeting soon to consider the request.

Mr. Edgerton questioned if the City had an affirmative action report and does the City look at the affirmative action policies of organizations which the City purchases goods and services from. City Manager Westbrook said that the City has adopted an Affirmative Action Plan. He was, however, not aware of the City reviewing affirmative

action plans for businesses that the City does business with. There is a nondiscrimination clause in the contracts that the City signs.

F. COMMENTS BY MR. RALPH BISHOP

Mr. Ralph Bishop commented on, among other things, his right to speak longer than three minutes.

G. CLAIMS

The following claims were received by the City of Asheville during the week of February 23-29, 1996: Patrick Johnson (Streets), Rose Treadaway (Streets), Clay Management Properties (Water) and Katherine Daven (Sanitation).

The following claims have been received during the week of March 1-7, 1996: Yousef Benomran (Water), Effie Jones (Water), Dennis DeWeece (Fire) and Pam Livingston (Streets).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

H. CLOSED SESSION

At 6:15 p.m., Vice-Mayor Field moved to go into closed session as authorized by G.S. 143-318.11 (a) (6) to consider the performance of an individual officer or employee. This motion was seconded by Councilman Worley and carried unanimously.

At 6:40 p.m., Vice-Mayor Field moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:40 p.m.

Magdalen Bandy
CITY CLERK

MAYOR

Tuesday - March 19, 1996 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman M. Charles Cloninger

LX FIRE DEPARTMENT SAFETY TEAM REPORT

Fire Chief John Rukavina introduced the Fire Department's Legacy of Excellence ("LX") quality improvement Safety Team. They identified the problem being 50% of all "personal alert safety system" ("PASS") alarms did not meet the NFPA 1500 requirement that all members (100%) involved with rescue, fire suppression, or other hazardous duties be provided with and use a PASS alarm device. Not having/using this device could cause unnecessary injury or death.

Team members explained that when fighting a fire, each Asheville firefighter is supposed to wear a "personal alert safety system" ("PASS") that sounds an audible alarm if the firefighter remains motionless for more than 30-45 seconds. The purpose of a PASS is to alert other firefighters that a firefighter might be injured and unconscious or unable to move.

But since the PASSs have been introduced, the Asheville Fire Department had noted problems in maintaining the PASSs, and the fact that some firefighters were not wearing PASSs at fire emergencies.

The Safety Team identified the root causes (no formal process, no access to supply PASSs and no one being held responsible for the supply of PASSs) and then developed solutions and monitored the results. As a result of the work of the Safety Team, the PASSs are regularly used and maintained, and a replacement for a damaged or disabled PASS is available immediately.

Mayor Martin, on behalf of Council, commended the Safety Team for their hard work on this potentially critical problem.

ANNEXATION OF CARE FREE WINDOWS/KINCO DIVISION

Mr. Carl Ownbey, Urban Planner, said that the Planning Department has received a petition under G.S. 160A-58.1 to annex a non-contiguous property on 150 Westside Drive known as Carefree Windows.

On September 29, 1995, the City of Asheville received a signed petition from Carefree Windows requesting annexation of their property. The annexation is in accordance with the agreement between Care-Free Windows and the City of Asheville for extension of sewer services. The property is not more than three miles from the primary corporate limits and is not closer to the primary limits of another city than it is to the City of Asheville. The next step in the annexation procedure is to adopt a resolution setting a public hearing on the question of annexation.

Upon inquiry of Councilman Skalski, Mr. Ownbey said that the property is already zoned LI Light Industrial.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

SUMMER YOUTH PROGRAM

Ms. Roxie Wynn, Assistant Personnel Director, explained that the City Council has appropriated $100,000 since 1992 to fund a Summer Youth Program. The program's purposes have been to employ "at risk" City youth and to promote positive work ethics and healthy lifestyles. The qualify, applicants have had to be 14-18 years of age, a resident of Asheville and a student in a public or private school system. In 1992 the applicant's gross income was also considered. She then highlighted the programs since 1992. The staff recommended funding the program at $100,000 (or some lower amount) and support it with a program administrator and counselor.

Upon inquiry of Councilman Hay, Ms. Wynn said that last year the Chamber of Commerce was unable to participate due to downsizing.

When Vice-Mayor Field questioned what type of criteria was used to employ the youth, Ms. Wynn said that the applicants go through an in depth interview process. In addition to their responses, their prior work experience, if any, and performance is taken into account.

Ms. Wynn then responded to questions from Vice-Mayor Field about how the City can target the youth who need the jobs most, by perhaps an income limit. City Attorney Slawter's opinion was that the City can't target minorities, however, he felt they could target low income.

Ms. Wynn answered questions about the County's summer youth program.

Vice-Mayor Field wanted to make sure that the summer youth program be limited to only Asheville residents.

Upon inquiry of Mayor Martin, Ms. Wynn said that last year 200 youth applied for jobs and 80 were hired.

In response to Councilman Worley's question about whether the program meets the City's needs, Ms. Wynn responded that an evaluation from the participants and supervisors is done at the end of the program and last year 95% responded that they enjoyed the program and it was beneficial to them.

City Manager Westbrook spoke in support of this program noting that the City doesn't put the youth in dangerous jobs.

In trying to address Vice-Mayor Field's concern about targeting low income Asheville residents, City Manager Westbrook suggested that in this upcoming year the City obtain income information and then have that information available for future guidelines. He felt the City could very well already be meeting those needs.

When Mr. H.K. Edgerton asked that the City consider hiring these youth in jobs other than just outdoor-type jobs, Mayor Martin responded that we need to make sure that the jobs are meaningful to the youth and that they also do something constructive for the City.

It was the consensus of Council to fund the 1996 Summer Youth Program at $100,000 and support it with a program administrator and counselor.

BELE CHERE BOARD

Mr. Irby Brinson, Director of Parks and Recreation, explained that the purpose of this resolution is to recognize the Bele Chere Board as being appointed by the City of Asheville.

Resolution 93-45 was established to recognize the Bele Chere Commission as an appointed board and commission for the City of Asheville in 1993. The approval of this resolution provided some liability protection for the members of the Commission through City's excess liability insurance program. This resolution did not, however, cover the Bele Chere Chairman or the Bele Chere Board. This resolution will amend Resolution 93-45 to include liability protection for the Bele Chere Chairman and the Bele Chere Board.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

REQUEST TO ACCEPT SHADY CIRCLE AS A CITY SYSTEM STREET

At the request of Mr. Scott Dedman, representing Mountain Housing Opportunities, this item was deleted from this agenda.

LEASE AGREEMENT BETWEEN THE CITY AND THE AIRPORT AUTHORITY

City Attorney Slawter said that this action will authorize the Mayor to execute an agreement between the City and the Asheville Regional Airport Authority.

Pursuant to the Airport Agreement which was entered into between the City and the County on November 29, 1979, the City leases to the Airport Authority land used by the Airport. The Airport Authority has recently acquired, with Airport funding, additional land to be used for Airport purposes. That land was acquired by the Airport Authority in the name of the City of Asheville and an amendment to the Lease is required in order to officially put the property under the control of the Airport Authority.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

LEGISLATIVE PACKAGE

City Attorney Slawter outlined each of the draft legislative proposals that Council has previously discussed.

1. A bill providing that Asheville have the same authority that other municipalities within the state (other than municipalities within Buncombe County) have regarding the area within which downtown development projects may occur.

This item received unanimous support of the Council and they instructed the City Attorney to proceed with placing it in the legislative package.

2. A bill exempting Asheville from the state-wide requirement that before issuing a building permit to a contractor, the building inspector must first verify that the contractor has paid its privilege license tax and has workers' compensation insurance in effect.

This item received unanimous support of the Council and they instructed the City Attorney to proceed with placing it in the legislative package.

3. A bill increasing from $5.00 to $10.00 the amount of tax that the City may impose on motor vehicles.

This item received unanimous support of the Council and they instructed the City Attorney to proceed with placing it in the legislative package.

4. A resolution encouraging the legislature to make campaign finance reform a priority.

Vice-Mayor Field felt that this resolution was unnecessary since the legislative delegation is already looking into campaign finance reform. She had no problem if the Council independently wanted to contact the legislators and express their opinions. Personally she had some concerns about the recommendations from the Committee for Campaign Finance Reform. She also expressed a concern about some constitutional issues. She would not support this resolution.

Councilman Skalski was definitely in favor of campaign finance reform, to whatever extent possible.

Councilman Worley said that he would like to see some campaign finance reform; however, he was unsure if it needed to be in the legislative package since we are not asking for specific legislative affecting Asheville.

Councilman Sellers felt he would support the resolution as written.

Mayor Martin didn't support the resolution because he felt it was just another level of bureaucracy imposing itself on them.

Councilman Worley felt that since this would not receive unanimous support of the Council, it should not be in the legislative package.

Councilman Hay supported the resolution stating that it's clear that we need to have campaign finance reform a priority.

Vice-Mayor Field moved to delete the campaign finance reform issue from the legislative package. This motion was seconded by Mayor Martin and the motion was defeated on a 2-3 vote (with Councilmen Sellers, Skalski and Worley voting "no" and Councilman Hay being absent).

Because the items being presented to the legislative delegation should receive unanimous support of the Council, Councilman Worley then moved to reconsider not presenting this issue to the delegation. This motion was seconded by Vice-Mayor Field and carried on a 5-1 vote, with Councilman Skalski voting "no".

5. A bill authorizing Asheville and Buncombe County to adopt ordinances providing for the Asheville-Buncombe Community Relations Council to process EEOC complaints within Asheville and Buncombe County.

City Attorney Slawter stated that New Hanover County was the first entity in North Carolina to obtain equivalent authority from EEOC to investigate employment discrimination claims. He responded to questions

brought up at the last worksession regarding, among other things, legal representation. He said that the Chamber of Commerce and the Council of Independent Business Owners had not had time to respond regarding what position, if any, they would have regarding this local enforcement. He did note, however, that the City Manager has been contacted by the County Manager and he indicated that the County was not inclined to go forward with this without support from the business community.

Mr. Robert Smith, Executive Director of the Asheville-Buncombe Community Relations Council, said that they are working closely with Western Carolina Industries about this issue. He noted that to date he has not heard any opposition from the business community until now, with the County's position. When they talked to the County, he noted the Commissioners were very enthusiastic about this. He did state that he spoke with Senator Jesse Ledbetter who said that it would be more appropriate for this issue to be introduced in the 1997 session and it was his feeling that it wouldn't be introduced this year because the legislators are in short session (which he stated only deals with budget issues and critical need issues). Senator Ledbetter did state that he would be glad to present the issue to the delegation in 1997. In the meantime, he plans to get out to the business community and show the what a positive move this would be. Now the average time for the EEOC to investigate a complaint is one year. If the Community Relations Council did the investigation, it would take an average of 57 days.

Councilman Worley supported the request.

City Manager Westbrook felt that perhaps the County's concern was that since this would not affect complaints against the City of Asheville or Buncombe County, they wanted to make sure that the business community supported it.

Vice-Mayor Field suggested keeping this issue in the legislative package for this year so they will be made aware that we will bring it up again next session.

Councilman Hay agreed with Vice-Mayor Field about leaving this in the legislative package for the short session.

City Manager Westbrook felt there might be a potential problem if this legislation passes for Asheville and doesn't pass for Buncombe County, the businesses won't know if the complaint will be handled locally or in Raleigh.

Upon inquiry of Mr. H.K. Edgerton, City Attorney Slawter explained that any group can make a request to the local legislative delegation.

This item received unanimous support of the Council and they instructed the City Attorney to proceed with placing it in the legislative package.

6. A resolution urging the legislature to support affordable housing in North Carolina.

Vice-Mayor Field had no problem in supporting affordable housing in North Carolina, but felt the language of the resolution contained a lot of verbiage she didn't feel was necessary.

Councilman Skalski stated that at a recent National League of Cities meeting, there was unanimous support that the Housing Trust Fund should go towards home ownership and asked for similar language to be included in this proposed resolution.

Vice-Mayor Field felt that she would not support the resolution if restricting it to only home ownership.

Councilman Worley said that this is similar to the campaign finance reform resolution discussed earlier in terms that it is general in nature. Since the legislative package traditionally deals only with local legislation that specifically affects Asheville, perhaps this should be reviewed by the Affordable Housing Coalition and then brought back to Council for their consideration. If, at that time, Council adopts the resolution, it can be sent on to the local delegation.

Vice-Mayor Field moved to send this resolution, including Councilman Skalski's suggested language, to the Affordable Housing Coalition for their review, prior to consideration by the City Council. This motion was seconded by Councilman Worley and carried on a 5-1 vote, with Councilman Skalski voting "no".

7. A bill which would add a new category to G.S. 136-27.1, requiring DOT to pay relocation costs for lines constructed by a water or sewer system organized pursuant to G.S. 160A-462.

City Attorney Slawter said that G.S. 136-27 provides for reimbursement from the N.C. Dept. of Transportation for the non-betterment cost of relocation of water and sewer lines to several types of entities. The legislation does not cover the Asheville-Buncombe Water Authority. This proposed bill would add organizations created in the manner that the Asheville-Buncombe Water Authority was created to the list of eligible entities.

This item received unanimous support of the Council and they instructed the City Attorney to proceed with placing it in the legislative package.

8. Other Items

Upon inquiry of Vice-Mayor Field, City Attorney Slawter said that the North Carolina League of Municipalities hasn't taken any positions yet of which he is aware on legislative issues, but when they do, cities will be notified.

Vice-Mayor Field instructed the City Attorney to investigate an issue regarding abandoned properties and the city's authority to take them by eminent domain and sell them.

9. Legal Advertising for the Unified Development Ordinance

City Attorney Slawter said that the legal notices for the Unified Development Ordinance will be outstanding. He asked for Council's concurrence in asking the legislature for some help that will enable the City meet the notice requirements imposed by State law but not spend the enormous amount of money that will be required for legal ads. He suggested they might have information from other cities that have gone through an entire rezoning and see how they handled it.

Councilman Skalski said that he knew of some cities that have a permanent structure zoning in place and would be happy to share that information with Mr. Slawter.

Mayor Martin said that he would be contacting the local delegates to get some dates in which they might be able to meet with the Council regarding our legislative package.

CONSENT AGENDA:

Budget amendment for after school/day camp program

Summary: This budget amendment, in the amount of $19,653, is to appropriate funds to operate an After School/Day Camp Program at the East Asheville and Murphy-Oakley Recreation Centers.

The Parks and Recreation Department currently operates seven after school and day camp programs in conjunction with the school systems. The Dept. of Human Resources Administrators, working in Buncombe County, have shared with staff that there is a waiting list for child care services in Haw Creek, Oakley, and Bell Elementary Schools. We anticipate that an average of 20 participants per site for after school and between 20-30 participants for summer day camp will be available for these programs per location. These programs will be fee-based and will cover expenditures to operate. In addition, we will be able to reduce our part-time staff through our operating budget at an anticipated savings of $12,000 annually. The staff feels that it is advantageous to begin this program as quickly as possible in order to secure participants for the Summer Day Camp Program which will begin after school ends in June.

Budget amendment to move radio repeaters

Summary: This budget amendment, in the amount of $19,970, is to upgrade an existing radio repeater from conventional to trunked status and move the Mt. Royal in Skyland to Spivey Mountain site.

Due to a lack of system resources, radio users now incur "system busies" on a daily basis and an unacceptable number of these busies during emergency situations. The objective of this upgrade and move is to utilize existing resources more effectively, thereby reducing busies for Public Safety system users. The Police Chief and the Fire Chief are in agreement with the intent of this project.

The equipment that must be purchased will upgrade the existing system and can only be supplied by Motorola. If anyone other than Motorola-approved service personnel install this equipment, all maintenance and warranty contracts will be void. At the present time, there are no minority-owned Motorola service facilities in this area.

Addition of third school resource officer

Summary: Authorization is needed to staff the School Resource Officer Program with one additional, full-time police officer. The existing agreement was last modified on September 13, 1994, to reflect two officers. Since that time the School Board has sought and received funding for a third school resource officer through a grant process. The program has been expanded as School Administration and faculty realized there is a crucial need for police officers on campus.

It was the consensus of Council to proceed with appropriate actions from the Consent Agenda at the next formal meeting.

OTHER BUSINESS

Worksession Times

It was the consensus of Council that when the Council as a whole is invited to a luncheon on a worksession date, that the worksession time be more flexible. Because of the Housing Authority luncheon on April 2, it was the consensus of Council that the worksession on April 2 begin at 2:00 p.m. in Room 623 in the City Hall Building.

The Airport Authority luncheon is scheduled for April 16 and it was the consensus of Council that the worksession on that date begin at 3:30 p.m. in Room 623 in the City Hall Building, followed by the Joint City/County Meeting at 5:00 p.m. in the same room.

It was noted that normal worksessions (held on the first and third Tuesdays of the month) will continue to be at 3:00 p.m. in Room 623 of the City Hall Building.

Comments by Mr. H.K. Edgerton

When Mr. H.K. Edgerton asked if there was anyway transportation can be provided to and from recreation centers for youth who are participating in City-sponsored programs, Mayor Martin suggested Mr. Edgerton talk with Mr. Irby Brinson, Director of Parks and Recreation.

Upon inquiry of Mr. Edgerton about the financial request of the YMI Cultural Center, Vice-Mayor Field said that the Council committee has met and they have asked for documents from the YMI. She assured Mr. Edgerton that they understand the importance of the issue and are working on it.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:03 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - March 26, 1996 - 5:00 p.m.

Regular Meeting

Present: Vice-Mayor Barbara Field - Presiding; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Mayor Russell Martin

INVOCATION

Councilman Hay gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 96-46 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE PATRICIA TALLERDAY JOYCE, SENIOR PLANNER

City Manager Westbrook read the resolution stating that Patty Joyce has been an employee for 15 years and has requested retirement from her position as Senior Planner in the Asheville Planning & Development Department. He expressed City Council's appreciation to Patty for her service to the City of Asheville and its citizens.

Councilman Worley moved for the adoption of Resolution No. 96-46. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 136

C. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 1-7, 1996, AS "COMMUNITY DEVELOPMENT WEEK"

Vice-Mayor Field read the proclamation proclaiming the week of April 1-7, 1996, as "Community Development Week" in the City of Asheville. She presented the proclamation to Mr. Marvin Vierra, Community Development Director, who noted that since the inception of the CDBG program in 1974, the City has received in excess of $37,700,000 in CDBG funding for activities that benefit low and moderate income persons. He then passed out T-shirts to the Council to help advertise Community Development week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE ALL OR A PORTION OF THE PROPERTIES LOCATED IN THE HAW CREEK AREA WHICH ARE ZONED R-3 MEDIUM DENSITY TO EITHER R-2 LOW DENSITY RESIDENTIAL, R-1A SINGLE FAMILY MODERATE DENSITY RESIDENTIAL OR R-1 SINGLE FAMILY RESIDENTIAL

ORDINANCE NO. 2267 - ORDINANCE TO REZONE ALL OR A PORTION OF THE PROPERTIES LOCATED IN THE HAW CREEK AREA WHICH ARE ZONED R-3 MEDIUM DENSITY TO EITHER R-2 LOW DENSITY RESIDENTIAL, R-1A SINGLE FAMILY MODERATE DENSITY RESIDENTIAL OR R-1 SINGLE FAMILY RESIDENTIAL

Vice-Mayor Field opened the public hearing at 5:14 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Joyce, Senior Planner, said that City Council has requested that a portion of the Haw Creek area currently zoned R-3 be considered for a zoning amendment to either R-2, R-1 or R-1A or retaining the R-3 zoning for all or a portion of the properties as part of the City's comprehensive plan for this area.

The City Council directed the Planning & Zoning Commission ("Commission") and it's Planning & Development Dept. to study the portion of the Haw Creek area currently zoned R-3 in order to make a recommendation as to whether all or a portion of the area should be rezoned. At their March 6, 1996, meeting, the Commission reviewed the area in question and considered the following: (1) Land Use Plan: The Asheville City Plan 2010 identifies this area as low density residential; (2) Current Land Use: The area is developed with single homes, many duplex parcels both small and large apartment complexes, churches and an elementary school. There are several large vacant parcels in the area that have development potential; and (3) Zoning Pattern: All of the remaining Haw Creek Valley in the City's zoning jurisdiction is already zoned R-1 or R-2. As annexed areas were zoned, low density residential districts were assigned to those areas in conformance with the 2010 Plan. The remaining R-3 area under consideration at this time shares the same residential character as the upper valley and should likewise be considered for a low density district designation.

The Commission recommended rezoning the portion of Haw Creek as follows: the majority of the area is proposed to be rezoned to R-2; 17 parcels between Arco Road and Mt. View Road are proposed to be rezoned R-1A; 26 parcels generally between Avon Road and Lynnstone Court are proposed to be rezoned R-1; and three parcels are proposed to remain R-3 - the Mews Apartments (2 parcels) and the adjacent Beverly Road Apartments (1 parcel).

Ms. Barber Melton, Haw Creek Homeowners Association and Coalition of Asheville Neighborhoods, thanked the Council and staff for their assistance in this rezoning. The Association is pleased with this rezoning, except they would prefer not to have any R-3 in Haw Creek, even if it is built out. However, they feel that they might be able to address this when the UDO mapping is done.

Mr. Jay Winer, property owner on Whitson Road, said that he purchased a vacant piece of property several years ago with the intention of developing 10 units on it - not the 16 units per acre allowed under the R-3 district. He now finds that he has a need to sell his property and has a potential buyer. He felt that rezoning his property to R-2 would cause him damage. He requested Council consider excluding his property from the R-2 designation and let it remain zoned R-3. He also asked if Council has considered any type of reimbursement for loss as a result of this rezoning.

Vice-Mayor Field said that Council could not exclude his piece of property because it would be illegal spot zoning.

Upon inquiry of Councilman Cloninger, Ms. Joyce explained why Mr. Winer's property was recommended to be rezoned to R-2. She said the R-2 zoning in this entire area classifies the character of the neighborhood. Property values might be enhanced if low density residential were to be built on his property. She noted access problems of multi-family units on curved roads and on very sharp intersections located in Haw Creek.

She did mention the UDO to Mr. Winer and that he might explore that particular view offering more options for that piece of land at a later time.

Councilman Skalski suggested Mr. Winer talk with the neighborhood association about his concern. He then stated that perhaps when the UDO mapping is completed, his zoning may change again.

It was Vice-Mayor Field's understanding that this basically was the work that was going to be done for the UDO and that's why Council decided to move forward with it, rather than holding it for the UDO mapping. Planning & Development Director Julia Cogburn said that there are different districts proposed in the UDO, but staff and the Planning & Zoning Commission was looking at this area in light of densities that they felt would be appropriate to carry forward. As staff moves forward with the UDO mapping in general, they are trying to create as few non-conformities as possible.

Mr. Steve Bias said that he and his parents just bought two lots in the fall on Old Haw Creek Road. Unfortunately their realtor did not mention the proposed rezoning request. He said that one lot has a house on it and the other lot is vacant. He said that the lot size is such that if it goes from R-3 to R-2, the vacant lot could not be built on. He asked if they could be grandfathered in since they did purchase that property with the expectation of being allowed to build on it.

Upon inquiry of Vice-Mayor Field about the possibility of grandfathering a lot, City Attorney Slawter said that selecting an individual lot to rezone it R-3, within an area that's otherwise zoned R-2, would constitute spot zoning and would be a legal problem. He could not see any way that Council could appropriately single out an individual lot and leave it R-3 and rezone everything else around R-2.

Mr. Jerry Crow, attorney representing Haw Creek Mews Apartments, said that they are not opposing the rezoning since it leaves the zoning for the Haw Creek Mews as it was, and as it should be. He urged Council, if they are on the threshold of enacting the UDO, that the mapping be consistent with what's going in that direction. He did not want to see Haw Creek Mews rest with this and then only to find out that the UDO or the neighborhood association has another change in mind. He did not want to find the Haw Creek Mews in a non-conforming situation in the event of a fire or something else.

Upon inquiry of Vice-Mayor Field, Ms. Cogburn said that if Council wanted to, over time, transform the entire nature of a particular area, they could create a lot of non-conforming uses. The interest being in as development took place over time or as uses changed out the use and the nature of the area would evolve toward whatever Council's suggested direction was for that. Typically, however, it's generally been the decision of the legislative bodies here in Asheville, as well as nation-wide, to try to create as few non-conformities as possible.

Ms. Betty Winston, resident on Lynnstone, spoke in support of the proposed rezoning.

Mr. Chris Pelly, President of the Haw Creek Homeowners Association, noted that there were several things that could be done on a piece of R-2 property. He stated the efforts that the Association made to inform the community of this requested rezoning. He said that R-3 zoning is no longer appropriate for Haw Creek. He said that R-2

zoning will still allow apartments, but at a lower, more manageable, density. He said that it is the Association's wish that there be no more R-3 in Haw Creek after the rezoning. They believe this is the most consistent approach to areas already built out to R-3 standards. They do not believe the Haw Creek Mews are built to stand the test of time and will have a short live expectancy due to the quality of construction. If they come down in 10 or 20 years, they hope the land can then be used in a more reasonable manner as would be allowed by R-2 zoning.

Vice-Mayor Field closed the public hearing at 5:31 p.m.

Vice-Mayor Field said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2267. This motion was seconded by Councilman Skalski.

On a roll call vote of 6-0, Ordinance No. 2267 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 330

B. PUBLIC HEARING TO REZONE 105 LOTS IN THE MORNINGSIDE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

ORDINANCE NO. 2268 - ORDINANCE TO REZONE 105 LOTS IN THE MORNINGSIDE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

Vice-Mayor Field opened the public hearing at 5:34 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that a petition has been received that requests that 105 lots in the Morningside Park area off Brevard Road be rezoned from R-3 Medium Density Residential to R-1A Single Family, Moderate Density Residential.

At the City Council meeting held on February 13, 1996, the Council directed the Planning Department to study the Morningside Park area for possible rezoning. The Planning staff reviewed the petition and found it to be valid and submitted the petition to the Planning & Zoning Commission ("Commission") for their recommendation.

The subject property is approximately 41.75 acres. The 105 lots are located within the area called Morningside Park which is directly west of Brevard Road behind the Laurelwood Condominiums. The 2010 Plan recommends this area to be low density residential.

Of the 105 lots, 72 have single family residential structures and 33 lots are currently vacant with two of these vacant lots owned by a governmental agency. Of the 105 lots, 103 of them conform to the R-1A standard which is minimum lot size of 5,400 square feet and minimum lot width of 50 feet. The petition contains 74 verified property owner signatures or 70% of the property owners and the 74 lots constitute 66% of the land area.

The Planning staff reviewed the petition and recommended that the 105 lots be rezoned from R-3 to R-1A. At the Commission's meeting on March 6, 1996, they voted unanimously to recommend approval of the rezoning request.

Vice-Mayor Field closed the public hearing at 5:36 p.m.

Vice-Mayor Field said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2268. This motion was seconded by Councilman Skalski.

On a roll call vote of 6-0, Ordinance No. 2268 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 337

C. PUBLIC HEARING TO CONSIDER A MODIFICATION REQUEST FOR WOLFE COVE ROAD SUBDIVISION

Vice-Mayor Field opened the public hearing at 5:37 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that Allan Henke and David Burnette are requesting a modification request from the subdivision regulations provision that all lots must abut a public street.

The subject property, which totals 3,429 acres, became part of the City of Asheville in May of 1991. In 1992, Mr. Burnette bought the property. In 1994, Mr. Burnette subdivided the property into two lots and sold approximately one acre to Mr. Henke. The County approved this subdivision although it was already in the City's jurisdiction. The City became aware of the subdivision when Mr. Henke applied for permits to construct a single-family house.

The one acre lot owned by Mr. Henke does not meet the City's subdivision regulations requirement that it abut a public street. Access to the lot is provided by a private drive.

At their March 6, 1996, meeting, the Planning & Zoning Commission voted unanimously to recommend approval of the modification request.

Mr. Green said that he received a call from Nicole Dimarzo who owns two lots in the subdivision. Her concern was that in 1986 she signed a letter with Mr. Medicus giving her the right of first refusal to buy any property that Mr. Medicus might sell and she felt that was not honored. Mr. Green felt that there was nothing the City could do because her concern is outside the bounds of this request.

City Attorney Slawter answered questions from Councilman Skalski as they related to the driveway access.

Vice-Mayor Field closed the public hearing at 5:48 p.m.

Councilman Cloninger moved to approve the modification request for Wolfe Cove Road Subdivision. This motion was seconded by Councilman Worley and carried unanimously.

D. PUBLIC HEARING TO REZONE 25 LOTS IN THE VINEWOOD CIRCLE/KENWOOD STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL

ORDINANCE NO. 2269 - ORDINANCE TO REZONE 25 LOTS IN THE VINEWOOD CIRCLE/KENWOOD STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL

Vice-Mayor Field opened the public hearing at 5:49 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this petition requests that 25 lots in the Vinewood Circle/Kenwood Road area be rezoned from R-3 to R-5.

The subject properties are approximately 9.2 acres. The area contains 17 residential structures and 12 mobile homes. The subject properties are surrounded on the north and west by R-3 and on the south and east by R-5. The majority of the surrounding area is well developed with mobile homes, including a mobile home subdivision directly to the northeast. The 2010 Plan shows this area to be low density residential; however, the character of the area inside and outside the City limits has developed into high density residential.

The Planning staff reviewed the petition and recommended that the 25 lots in the Vinewood Circle/Kenwood Road area be rezoned from R-3 to R-5. At the Planning & Zoning Commission meeting on March 6, 1996, the Commission voted unanimously to recommend approval of the rezoning request.

Mr. Samuel Camp, resident in the Richmond Hill area, asked questions about what impact this rezoning would have on his neighborhood and what the difference was in the density levels in R-5 and R-3. He said the Richmond Hill neighborhood did not want any more housing to be built in their area. He invited Council to attend their next neighborhood meeting. He suggested public hearing notices contain a little more information so property owners can understand what is being requested.

At the request of Mr. Ralph Bishop, Vice-Mayor Field read the uses permitted in the R-3 district and also the uses in the R-5 district. Mr. Bishop then felt that City Council is not giving adequate information to the public in order that they can make a rational comment.

Ms. Patsy Silver, petitioner requesting the rezoning, urged Council to rezone these lots so that the property owners can make improvements to their property, some improvements being to tear down old houses and put in new mobile homes.

When Mr. Camp was informed that mobile homes were not allowed in the present R-3 zoning, he asked Council table any action on this rezoning request until the City can meet with his neighborhood and they have an opportunity to discuss the request.

When Councilman Skalski asked if anyone from the Richmond Hill area went to the Planning & Zoning Commission meeting to express their concerns, Mr. Camp said that he did receive a notice in the mail but did not attend the meeting.

Ms. Silver stated that the Richmond Hill property is 1/8th of a mile away from the area they are asking to be rezoned. She said that it will have no bearing on the Richmond Hill property at all.

Upon inquiry of Councilman Hay, Ms. Silver stressed that the petition is from 100% of the affected property owners and she filed the original rezoning petition on February 5, 1996, with the Planning Department.

Vice-Mayor Field closed the public hearing at 6:05 p.m.

Vice-Mayor Field said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Hay moved for the adoption of Ordinance No. 2269. This motion was seconded by Councilman Cloninger.

Councilman Hay said that basically what the City is doing is reducing the density and allowing for mobile homes. He encouraged the Richmond Hill neighborhood group to get involved and perhaps become a member in the Coalition of Asheville Neighborhoods so that their area is well represented in the decision-making process. In this particular situation, he feels that this will do nothing but enhance the neighborhood and feels that this rezoning is a step in the right direction, especially since 100% of the property owners affected favor the rezoning.

Councilman Worley said that he appreciated the request to postpone the matter and ordinarily would honor that request, however, prior notice was given and no one attend the Planning & Zoning Commission meeting nor has anyone previously posed questions regarding this rezoning.

On a roll call vote of 6-0, Ordinance No. 2269 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 342

E. PUBLIC HEARING TO CONSIDER THE CITY'S PARTICIPATION IN A SEWER LINE UPGRADE PROJECT OF GERBER PRODUCTS OF ASHEVILLE

RESOLUTION NO. 96-47 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO AN AGREEMENT WITH GERBER PRODUCTS OF ASHEVILLE TO PARTICIPATE IN SEWER LINE IMPROVEMENTS

ORDINANCE NO. 2270 - BUDGET AMENDMENT TO ASSIST IN THE EXTENSION OF A SEWER LINE TO SERVE THE EXPANSION OF A PRIVATELY-OWNED INDUSTRIAL FACILITY KNOWN AS GERBER

Vice-Mayor Field opened the public hearing at 6:08 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning & Development Director, said that in October of 1995, Gerber Products of Asheville sent a formal request to the City for assistance with sewer line improvements. The request was that the City participate in funding the construction of sewer line improvements (public) necessitated by and in conjunction with other waste water system improvements (private) being conducted by Gerber.

The public improvements which the City is being asked to assist with will become part of the Metropolitan Sewerage District system. The estimated cost of these infrastructure improvements is $18,250. The City Council, if approving this resolution, will also need to approve a budget ordinance amendment, in the amount of $18,250, to appropriate the funds.

Ms. Cogburn noted that she received a phone call today from Mac Williams, with the Chamber of Commerce, who called to express the Chamber, as well as the County's Economic Development Commission, is in favor of this resolution and they do support the City's participation in this effort.

The staff's recommendation is adoption of the resolution and budget amendment. The agreement with Gerber does contain a provision indicating that the City's participation is contingent upon approval by the County of their share.

When Councilman Skalski inquired about Gerber's commitment to the community if the City participates in the request, Mr. Bill Rogers, Gerber's Plant Engineer, tried to respond by saying that one area identified by a task force, formed to make the Asheville plant more viable in comparison to their sister plants, was to reduce their costs for sewerage. In order to do that, they need access to a different type of line and part of this request is for improvements that will be in the public right-of-way that allow them access to that line. He felt that if this request was not granted, it would cost Gerber more for sewerage and make them less competitive against our sister plants, which could result in loss of jobs in Asheville.

Mr. Ray Burrows, N. C. Dept. of Commerce economic development representative, said that they have been coordinating this project since 1994. He said that Mayor Martin was on the task force when they went to corporate headquarters. He said while there is no commitment in writing, Gerber has made substantial improvements and they have been enabled to be identified as serving the growing Eastern, Caribbean and Brazilian markets from Asheville. He felt that this is the final piece of financial aid that will bring all of their capital improvements, that were in the program that were needed to reduce costs, together. He urged Council to proceed with these actions because it will mean continual savings of those good jobs and the tax investment.

Vice-Mayor Field felt this request was very positive.

When Mr. Richard Nantelle questioned if the Gerber plant's present discharge into the Metropolitan Sewerage District system is in compliance at this time, Mr. Burrows responded that it is.

Vice-Mayor Field closed the public hearing at 6:20 p.m.

Councilman Worley spoke in support of this request.

Vice-Mayor Field said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Skalski moved for the adoption of Resolution No. 96-47. This motion was seconded by Councilman Worley and carried unanimously.

Councilman Worley moved for the adoption of Ordinance No. 2270. This motion was seconded by Councilman Skalski.

On a roll call vote of 6-0, Ordinance No. 2270 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 344

F. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE IN THE OFFICE INSTITUTIONAL DISTRICT STANDARDS TO IDENTIFY OUTDOOR RECREATIONAL USES AS A PERMITTED USE

ORDINANCE NO. 2271 - ORDINANCE TO AMEND THE ZONING ORDINANCE IN THE OFFICE INSTITUTIONAL DISTRICT STANDARDS TO IDENTIFY OUTDOOR RECREATIONAL USES AS A PERMITTED USE

Vice-Mayor Field opened the public hearing at 6:22 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that at the request of an Asheville resident and property owner, the Planning & Development Department staff investigated the feasibility of revising the City's zoning ordinance to permit outdoor recreational uses in the OI Office Institutional District. Their research indicated that outdoor recreational uses are compatible with other uses permitted in the OI District and that several other cities permit these type uses in similar use districts. The proposed ordinance amendment was presented to the Planning & Zoning Commission ("Commission") at their March 6, 1996, meeting and after their review, they voted unanimously for its adoption. The ordinance amendment also includes a definition for outdoor recreational uses.

Upon inquiry of Councilman Hay, Mr. Green said that someone is interested in building a riding stable this summer in the Office Institutional District and under our current ordinance it is not allowed.

Vice-Mayor Field closed the public hearing at 6:25 p.m.

Vice-Mayor Field said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Skalski moved for the adoption of Ordinance No. 2271. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2271 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 346

G. PUBLIC HEARING RELATIVE TO CLOSING AN UNNAMED ALLEY EXTENDING FROM ATKIN AVENUE TO ITS DEADEND

RESOLUTION NO. 96-48 - RESOLUTION TO CLOSE AN UNNAMED ALLEY EXTENDING FROM ATKIN AVENUE TO ITS DEADEND

Vice-Mayor Field opened the public hearing at 6:26 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Public Works Director Mark Combs said that the City has received a petition from Midas Realty Corporation requesting that an unnamed alley connecting Atkins Avenue and Arden Avenue to permanently closed to public use. The petition received includes only the signature of Midas Realty Corporation, Inc. The other property owners affected by the requested closing, with the exception of CP&L, have been contacted by phone and none have indicated objection to the requested closing. A short section of the alley off Atkins Avenue is open as a driveway and the remaining section connecting to Arden Avenue is only an unopened right-of-way. Other property owners who have not signed the petition have been notified by registered mail.

The closing is subject to the retention by Carolina Power and Light of an easement for the full length and width of the unnamed alley to be closed for maintenance of an existing utility.

The Public Works Department staff recommends the petition to close the unnamed alley between Atkins Avenue and Arden Avenue be approved.

Vice-Mayor Field closed the public hearing at 6:28 p.m.

Vice-Mayor Field said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-48. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 138

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

V. CONSENT:

At the request of Mr. Ralph Bishop, Item A. Approval of the Minutes, was removed from the Resolutions & Motions Consent Agenda to be discussed individually.

RESOLUTIONS & MOTIONS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 12, 1996, AND THE WORKSESSION HELD ON MARCH 19, 1996

This item was removed from the Consent Agenda to be discussed individually.

B. RESOLUTION NO. 96-49 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE ASHEVILLE CITY BOARD OF EDUCATION RELATIVE TO SCHOOL RESOURCE OFFICER CONTRACT

Summary: Authorization is needed to staff the School Resource Officer Program with one additional, full-time police officer. The

existing agreement was last modified on September 13, 1994, to reflect two officers. Since that time the School Board has sought and received funding for a third school resource officer through a grant process. The program has been expanded as School Administration and faculty realized there is a crucial need for police officers on campus.

RESOLUTION BOOK NO. 23 - PAGE 140

C. RESOLUTION NO. 96-50 - RESOLUTION AMENDING THE RESOLUTION THAT ESTABLISHED THE BELE CHERE COMMISSION

Summary: The purpose of this resolution is to recognize the Bele Chere Board as being appointed by the City of Asheville.

Resolution 93-45 was established to recognize the Bele Chere Commission as an appointed board and commission for the City of Asheville in 1993. The approval of this resolution provided some liability protection for the members of the Commission through City's excess liability insurance program. This resolution did not, however, cover the Bele Chere Chairman or the Bele Chere Board. This resolution will amend Resolution 93-45 to include liability protection for the Bele Chere Chairman and the Bele Chere Board.

RESOLUTION BOOK NO. 23 - PAGE 141

D. RESOLUTION NO. 96-51 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE LEASE AMENDMENT NO. 3 TO THE LEASE WITH THE ASHEVILLE REGIONAL AIRPORT AUTHORITY

Summary: This action will authorize the Mayor to execute an agreement between the City and the Asheville Regional Airport Authority.

Pursuant to the Airport Agreement which was entered into between the City and the County on November 29, 1979, the City leases to the Airport Authority land used by the Airport. The Airport Authority has recently acquired, with Airport funding, additional land to be used for Airport purposes. That land was acquired by the Airport Authority in the name of the City of Asheville and an amendment to the Lease is required in order to officially put the property under the control of the Airport Authority.

RESOLUTION BOOK NO. 23 - PAGE 142

E. RESOLUTION NO. 96-52 - PRELIMINARY RESOLUTION CALLING FOR A PUBLIC HEARING ON MAY 14, 1996, TO LEVY SPECIAL ASSESSMENTS FOR THE RHODODENDRON CIRCLE PROJECT

Summary: The City of Asheville Public Works Department received a petition from the property owners on Rhododendron Circle requesting that the street be upgraded to City street standards and placed upon the City Street System.

Public Works staff has determined that the street will need spot repairs to the base and patching with asphalt in the spot areas that are badly "alligatored" along with total resurfacing. The cost of these repairs has been estimated at $32,038.52. The current policy in Public Works is that if the majority of the petitioning property owners who represent a majority of the front footage agree to pay their share of

the cost, which is 50% of the total, that the petition will be presented to City Council for consideration. Each property owner along the street has been contacted and given their 50% share of the cost as well as the opportunity to respond as to whether they agree to participate or not. Over 50% of the property owners who represent over 50% of the front footage have responded that they agree to participate in the share of their estimated amount. Out of 11 property owners, six responded "yes" to sharing the cost, four responded "no" to sharing in the cost and no response was received from one owner. The "yes" response represents 54.44%. The total front footage along the street is 1,358.91 feet. The "yes" responses represented 904.44 feet. The "no" responses including the one owner who did not respond represented 608.18 feet of frontage. The "yes" responses represents 66.56% of the frontage along the street.

Rhododendron Circle is a through street that runs between Old Haw Creek Road and Rhododendron Place. The area was annexed into the City in 1988. When the area was annexed, the City accepted all streets in the area that were publicly maintained by the N.C. Dept. of Transportation as City System Streets, with the exception of Haw Creek Road. Rhododendron Circle was not maintained by N.C. Dept. of Transportation so it did not become a City System Street.

Public Works staff recommends that City Council adopt a resolution calling for a public hearing to levy special assessments for the petitioned Rhododendron Circle Project.

RESOLUTION BOOK NO. 23 - PAGE 145

F. RESOLUTION NO. 96-53 - RESOLUTION FIXING DATE OF PUBLIC HEARING FOR APRIL 23, 1996, ON THE QUESTION OF ANNEXATION OF PROPERTY LOCATED AT 150 WESTSIDE DRIVE IN THE WESTSIDE INDUSTRIAL PARK PURSUANT TO G.S. 160A-58.1 (CARE FREE WINDOWS/KINCO DIVISION)

Summary: The Planning Department has received a petition under G.S. 160A-58.1 to annex a non-contiguous property on 150 Westside Drive known as Carefree Windows.

On September 29, 1995, the City of Asheville received a signed petition from Carefree Windows requesting annexation of their property. The annexation is in accordance with the agreement between Carefree Windows and the City of Asheville for extension of sewer services. The property is not more than three miles from the primary corporate limits and is not closer to the primary limits of another city than it is to the City of Asheville.

RESOLUTION BOOK NO. 23 - PAGE 148

G. MOTION SETTING A PUBLIC HEARING ON APRIL 9, 1996, TO CONSIDER REZONING 865 HAYWOOD ROAD AND 2 DYSART STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY

H. MOTION SETTING A PUBLIC HEARING ON APRIL 9, 1996, TO CONSIDER A PARKING MODIFICATION FOR BLUE RIDGE CENTER

Vice-Mayor Field said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Cloninger moved to approve the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Sellers and carried unanimously.

ORDINANCES:

A. ORDINANCE NO. 2272 - BUDGET AMENDMENT FOR AFTER SCHOOL/DAY CAMP PROGRAM AT EAST ASHEVILLE AND MURPHY-OAKLEY RECREATION CENTERS

Summary: This budget amendment, in the amount of $19,653, is to appropriate funds to operate an After School/Day Camp Program at the East Asheville and Murphy-Oakley Recreation Centers.

ORDINANCE BOOK NO. 15 - PAGE 349

B. ORDINANCE NO. 2273 - BUDGET AMENDMENT TO MOVE RADIO REPEATERS

Summary: This budget amendment, in the amount of $19,970, is to upgrade an existing radio repeater from conventional to trunked status and move the Mt. Royal in Skyland to Spivey Mountain site.

Due to a lack of system resources, radio users now incur "system busies" on a daily basis and an unacceptable number of these busies during emergency situations. The objective of this upgrade and move is to utilize existing resources more effectively, thereby reducing busies for Public Safety system users. The Police Chief and the Fire Chief are in agreement with the intent of this project.

The equipment that must be purchased will upgrade the existing system and can only be supplied by Motorola. If anyone other than Motorola-approved service personnel install this equipment, all maintenance and warranty contracts will be void. At the present time, there are no minority-owned Motorola service facilities in this area.

ORDINANCE BOOK NO. 15 - PAGE 352

Vice-Mayor Field said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they would not be read.

Councilman Cloninger moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, the Ordinance Consent Agenda passed on its first and final reading.

ITEM PULLED FROM THE CONSENT AGENDA TO BE DISCUSSED INDIVIDUALLY

APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 12, 1996, AND THE WORKSESSION HELD ON MARCH 19, 1996

Mr. Ralph Bishop, resident of the City of Asheville, felt that City Clerk Burleson was not complying with State law since she does not transcribe the City Council minutes verbatim.

City Attorney Slawter said that in a case decided by the N.C. Supreme Court within the last two weeks, Maready vs. the City of Winston-Salem, the N.C. Supreme Court said that verbatim minutes are not

required. All that has to be kept in the minutes is a statement of any actions taken by the Council. He said that he would be happy to furnish Mr. Bishop a copy of that decision.

Mr. Bishop said he wanted "to see where the State Supreme Court has the right to abolish the Constitution of the State of North Carolina which states you must have a vote on it. To amend the Constitution of the State of North Carolina, the people must vote on it. The State Supreme Court has no legal authority to abolish the State Constitution."

Councilman Worley moved to approve the minutes of the formal meeting held on March 12, 1996, and the worksession held on March 19, 1996. This motion was seconded by Councilman Skalski and carried unanimously.

VI. OTHER BUSINESS:

A. COMMENTS BY H.K. EDGERTON REGARDING AFFIRMATIVE ACTION

Mr. H.K. Edgerton stated his concerns (1) about whether the City reviews the affirmative action plans of the companies it does business with; (2) whether the City is complying with their own Affirmative Action Plan; and (3) why African Americans are unable to move forward in Asheville.

B. CLAIMS

The following claims were received by the City of Asheville during the week of March 8-14, 1996: Mark Crain (Finance) and NC Dept. of Transportation (Water).

The City received the following claims during the week of March 15-21, 1996: Robert Cline (Water), Ron Dula (Water), Sandra Justus (Water), Roy Gogel (Water), Ellie Brown (Water) and Martha Parker (Water).

These claims will be referred to Asheville Claims Corporation for investigation.

C. COMMENTS BY CHRIS JOHANSON

Mr. Chris Johanson, resident of the Asheville downtown neighborhood, stated that he has followed City Council for many years and he finds the present City Council not only working well together, but they conduct their business more simply, cleanly, streamlined and with more understanding that any previous Council.

Closed Session

At 6:50 p.m., Councilman Worley moved to go into closed session as authorized by G.S. 143-318.11 (a) (5) to establish the City's position regarding the acquisition of real property located at 41 Eve Lake Drive and as authorized by G.S. 143-318.11 (a) (3) in order to preserve the attorney-client privilege, including matters related to the lawsuit involving Lamont Baird vs. the City, County and others (File # 1:95 CV 63). This motion was seconded by Councilman Hay and carried unanimously.

At 7:30 p.m., Councilman Skalski moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

VII. ADJOURNMENT:

Vice-Mayor Field adjourned the meeting at 7:30 p.m.

Magdalena Burleson
CITY CLERK

MAYOR

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Tuesday - April 2, 1996 - 12:00 Noon

Annual Housing Authority Luncheon

City Council Members Present: Mayor Russell Martin; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Members of the Housing Authority Board and others were present.

Mr. David Jones, Executive Director of the Housing Authority, presented their Annual Report to the City Council. The presentation covered elements of past performance, present working goals and projects underway, and a glimpse of the Authority's long range plans. Their goal is to report to the City Council on a regular basis and to continue the fine working relationship.

The Housing Authority staff asked that they be included in the policy issue discussions of the UDO as they relate to possibly broadening the uses in the single-family districts (to perhaps include duplexes or triplexes).

The Housing Authority asked that City Council think about waiving the payment in lieu of taxes for perhaps a 10 year period for Mountainside Apartments. That would give them an opportunity to put those dollars back into housing.

The Housing Authority also asked that Mayor Martin consider reappointing the current Chairman of the Housing Authority (Annette Coleman) whose term is due to expire in June of 1997. They understand that she has served the full two year terms, however, the Housing Authority is at a critical and crucial time, and they would like to have the expertise of Ms. Coleman. They suggested her term be extended for maybe an additional two years (a full term being five years).

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - April 2, 1996 - 2:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

PRESENTATION OF SERVICES BY THE BUNCOMBE COUNTY DRUG COMMISSION

Mr. John Ingersoll, Vice-Chairman of the Buncombe County Drug Commission, showed a video and briefed the Council on the services the Buncombe County Drug Commission provides.

Councilman Cloninger, City Council liaison to the Commission, spoke in support of the Commission and their programs.

LIST OF FESTIVALS FOR 1996

Mr. Irby Brinson, Director of Parks and Recreation, said that the Parks and Recreation Department requests City Council approval of the 1996 festival and special events schedule.

In March of 1995, the Asheville City Council adopted a festival policy. A segment of that policy requires that Council approve the list of festivals on an annual basis. Therefore, the Parks and Recreation Department is recommending approval of the following festivals and special events:

EVENT	DATE
St. Patrick's Day	March 16 - 17
Very Special Arts Festival	May 3
Tell It In The Mountains	May 10-12
RiverLink Dedication	June 8
Olympic Torch Run	June 26
Shindig on the Green	July 6, 13, 20 August 10, 17, 24, 31 September 7
July 4 Celebration	July 4
Bele Chere	July 26-28
Mountain Dance & Folk Festival	August 1-3
Goombay Festival	August 30 - September 1
Greek Festival	October 4 - 6
West Fest	October 26
Light Up Your Holidays	November 30 (Premier)
First Night	December 31
Children's Festival	TBS
Bicentennial	TBS

It was the consensus of Council to approve the above 1996 festival and special events schedule.

BUDGET AMENDMENT RELATIVE TO BELE CHERE 1996

Mr. Irby Brinson, Director of Parks and Recreation, said that this budget amendment, in the amount of $399,525, is to appropriate funding for the 1996 Bele Chere.

Each year, prior to the annual Bele Chere Festival, the Parks and Recreation Department develops an anticipated budget for expenditures and revenues. Committees have been formed to operate the festival and this appropriation is divided among each committee. It is anticipated that revenues will be generated at a level to support the expenditures of the festival.

Upon inquiry of Councilman Skalski, Mr. Brinson said that this budget is approximately a $30-40,000 increase over last year, basically as a result of inflation. He did note, however, that they are looking at some new activities and a very aggressive sponsorship program.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

PEDESTRIAN OVERPASS OVER I-240 TO STEWART STREET

Mr. James Cheeks, Traffic Engineer, said that the City has received a petition from residents of Stewart Street and surrounding areas to close the pedestrian bridge across I-240 at Stewart Street.

The petition received by the City stated that "The bridge has been the source of problems in our neighborhood for many years. We are constantly plagued by noises of motorcycles, loud pedestrians and boom boxes. Since the former Rankin School has been demolished, we see no necessity for this bridge." After researching this request, the City finds:

- The Pedestrian Task Force of the Asheville Area Metropolitan Planning Organization ("AAMPO") is against closing or removing this pedestrian amenity.

- The Transportation Advisory Group of the AAMPO commented that the City should not close a pedestrian bridge, as Asheville is so lacking in other pedestrian amenities.

- The Bikeway Task Force of the AAMPO do not agree with closing any pedestrian facilities. However, they recommended that pedestrian facilities be located where needed.

- Pedestrian facilities maps completed in response to a request by the Pedestrian Awareness Community Evaluation Committee ("PACE") show that the Stewart Street Bridge is a part of the West Asheville pedestrian network.

- NC Dept. of Transportation ("NC DOT") is in the process of formulating a project to widen I-240. NC DOT's policy is to replace pedestrian amenities with any existing major construction project. There is a question as to whether closing an existing facility would jeopardize having it replaced in a more appropriate location should the City desire.

- The Transportation Advisory Committee of the AAMPO ("TAC") has not had an opportunity to address this issue and offer their recommendation due to their March monthly meeting being canceled.

- The pedestrian bridge across I-240 is under the jurisdiction of NC DOT. Historical data indicates that the pedestrian bridge was constructed after overwhelming support from the City of Asheville and residents of this area. This residential neighborhood was separated due to the construction of I-240.

- The Asheville Police Department, ARGUS Unit, could not agree with the problems outlined by the residents in this area.

- The Public Works Department has installed a metal barrier with reflective sheeting at both ends of the Stewart Street bridge to deter motor vehicle access.

- Richard Nantelle, President of the Coalition of Asheville Neighborhoods, states that his group and other neighborhood groups across the City are in support of the proposal to close the pedestrian bridge.

Staff recommends that the Transportation Coordinating Committee of the AAMPO make its recommendation to the TAC. They also request that the TAC host a public hearing to get all interested parties together to discuss the issue. Then, the TAC will be able to make a recommendation to City Council.

Mr. Cheeks then handed out a letter dated November 16, 1994, from Ted Lambert, Patrol Division Commander, which stated that "it is the position of the Asheville Police Department that we would not be opposed to the removal or closure of this walk over bridge."

Councilman Worley noted that the overwhelming support from the community for the bridge to be originally built was for the convenience of school children in the community when Rankin Avenue School was on the other side of the bridge - which School is not there anymore.

Mr. Ken Putnam, representative of the NC DOT, said that there is a possibility that NC DOT might not go to the expense of rebuilding another or an alternate pedestrian bridge if the City requests them to close this one.

Vice-Mayor Field, Chairman of the TAC of the AAMPO, suggested that the TCC of the AAMPO and the TAC of the AAMPO be given an opportunity to review this matter and give it's recommendation to City Council. Since NC DOT does replace pedestrian amenities that are existing when they do a widening, the City might be better off not permanently closing the bridge and losing the opportunity for a replacement bridge.

Mr. Ron Fuller, the City's Transportation Planner, said that the Burton Street area was promised an overpass at I-240 but that bridge has not been constructed yet.

Councilman Sellers stressed that the community is asking for the City to support the closing of this walk bridge. They feel it's a real nuisance to the West Asheville community and it should be closed. He noted that there have been objects thrown from the bridge at passing vehicles on I-240, and children climbing on the top of the walk over the bridge which is a very dangerous situation.

Councilman Sellers asked for an immediate solution be to close off this bridge as NC DOT has done with the Hillcrest Bridge. He felt that the community might be willing to only temporarily close the bridge by blocking off both ends.

Councilman Sellers moved to place on the next formal meeting a resolution requesting NC DOT to temporarily close the pedestrian bridge across I-240 at Stewart Street and to include in the letter to NC DOT that when the widening project takes place that this request for closing the pedestrian overpass is not an indication that the City does not feel a pedestrian link across I-240 is not needed, but may be more appropriate in another location. This motion was seconded by Councilman Cloninger and carried unanimously.

REQUEST TO ACCEPT SHADY CIRCLE AS A CITY SYSTEM STREET

Mr. Mark Combs, Public Works Director, said that the developer of the Laurel Bridge housing development is requesting the City to accept maintenance responsibility for Shady Circle by adding it to the city street system.

The City has received a request from Mountain Housing Opportunities to add Shady Circle to the city street system. By adding Shady Circle to the city street system, the city will be responsible for maintenance of the street. City garbage trucks and other public agency vehicles will be able to use the street to provide services to residents of the Laurel Bridge housing development. Shady Circle was constructed by Mountain Housing Opportunities ("MHO") as part of the development of the Laurel Bridge housing development. The street was constructed to city standards and was inspected during construction by city staff.

The Laurel Bridge housing development consists of ten rental housing units. Shady Circle is a short dead end street approximately 200 linear feet with a turn-around which was constructed to provide access to the Laurel Bridge housing development site. It should be noted that parking for the units exists around the turn-around area which further distinguishes Shady Circle as a private maintenance responsibility. Shady Circle is accessed from Whitson Drive, which connects Tunnel Road with New Haw Creek Road. The only development served by Shady Circle is the Laurel Bridge housing development.

The construction plans for Shady Circle were reviewed as part of the development review process for the Laurel Bridge housing development. The street was designed to city standards and the construction plans were approved by the appropriate city staff; however, the criteria for public maintenance has not been met. Shady Circle has been inspected by the Public Works Department and meets the City standards.

Staff recommends denial of this request due to Shady Circle only serving a single property developed for rental housing; private parking in the cul-de-sac for apartment residents; and the precedence being set for streets in a similar situations that don't meet the City policy. If the apartments, in the future, did turn into condominiums, then acceptance might be acceptable to the City.

Mr. Scott Dedman, Executive Director of MHO, presented the following information for Council's consideration:

- Laurel Bridge Apartments, which is at the end of Shady Circle, is home for ten working families with children, serving between 20 and 40 Asheville residents at any one time. Laurel Bridge was developed by MHO., a non-profit housing development agency, and funded by the City of Asheville through Community Development Block Grant program, along with other public and private funds.

- In addition to MHO's property, other properties adjoin Shady Circle and the undeveloped public alley to which Sandy Circle leads, giving the possibility of future use by these other properties.

- MHO does have parking spaces near the turnaround. However, we are proposing that the City take responsibility for maintenance only for the portion between Whitson Road and the beginning of the turnaround/parking areas, thereby leaving responsibility for the maintenance of the turnaround and parking area to MHO.

- When MHO's site plans were received by the City's Technical Review Committee, the Planning & Zoning Commission, and by City Council, we were required to build the street to City street specifications. We did build to City street specifications, as has been verified by the Public Works Department.

Mr. Dedman then urged City Council to consider the above facts and approve their request that the City accept the approximately 80 feet of maintenance responsibility for Shady Circle, noting that the benefit for the apartments is mainly garbage pickup.

At the request of Councilman Worley, Assistant Public Works Director Larry Ward explained why the Public Works Department has asked that when apartments are built that their streets be built to City standards.

Mr. Combs said that the problem regarding garbage pick-up can be easily solved with a sanitation easement. He then said that if Council decides to accept Shady Circle as a City system street, the Public Works Department recommends that the cul-de-sac be excluded from the maintenance requirement, the tree in the south side curb line be removed; and the curb replaced where the tree was removed. The Traffic Engineering Division feels that the tree is a liability hazard.

Discussion then surrounded why the City felt the tree should be removed. Mr. Dedman felt that there would not be a dramatic loss if the tree was cut.

Vice-Mayor Field felt that since the apartments were partially funded through the City of Asheville's Community Development Block Grant funds, the City should lean toward accepting maintenance responsibility of Shady Circle. She did have a concern about cutting the tree, however.

Ms. Leni Sitnick, member of the Tree/Greenway Commission, suggested that the Commission be asked to look at this particular situation. They might be able to suggest ways that the tree be saved.

Mayor Martin was concerned with the City's liability if the tree remained.

It was the consensus of City Council to have all Council members visit Shady Circle and be prepared to discuss this request again at the next formal meeting.

REPORT ON CHARLOTTE STREET PLANNING PROCESS

Ms. Julia Cogburn, Planning & Development Director, said that staff would like Council to approve the process they are proposing for the Charlotte Street Small Area Plan, including the structure and

appointment of an advisory committee. Additionally, staff requests that one member of City Council be selected by Council to serve as a liaison to the advisory committee.

Small area planning is a collaborative process between the City, the residents, and business and property owners of a particular area. Through this process, issues and opportunities are identified, goals are set, alternative ways to reach those goals are generated and tested, and a plan is prepared. A small area plan consists of sets of recommendations about how to improve an area and spells out policies and specific strategies to help realize the future that has been envisioned. The goal of a small area plan is to arrive at a mutually satisfactory and beneficial plan based upon shared visions for the future of an area.

The Charlotte Street Plan: The Planning Department staff will be preparing a small area plan for the Charlotte Street corridor (from I-240 North to the end of the street). This plan was requested by City Council as a result of development pressures and traffic considerations which have affected the area.

The Planning staff will prepare the plan with guidance from an advisory committee and input from the larger community (i.e. property and business owners and residents from adjacent neighborhoods).

This planning effort will begin this spring and will likely continue until November of 1996.

In preparation for this planning process, staff has held two informational meetings with business/property owners and residents of adjacent neighborhoods.

Staff is proposing the following process and timetable for the Charlotte Street Small Area Plan:

I. Establish an advisory committee consisting of property and business owners on Charlotte Street and representatives of the various neighborhoods which surround the corridor. The advisory committee will provide guidance to the planning staff as the plan is prepared. One member of City Council and one member of the Planning and Zoning Commission will serve as liaisons to the committee. *Staff hopes to have the advisory committee in place in early April.*

II. Hold at least one advisory committee meeting (prior to the first community meeting) designed to allow the members of the committee to fully understand the process and their roles in it. *This meeting(s) would take place in mid/late April.*

III. Hold the first community meeting. This meeting is designed to identify issues, problems and opportunities that are important to the community as they relate to the Charlotte Street corridor. *Staff anticipates this meeting taking place in early May.*

IV. Hold a series of advisory committee meetings. At these meetings, the advisory committee and staff will address the principal issues which were identified by the larger community. Technical people will be brought in as necessary and a draft plan will be prepared which sets goals and identifies specific strategies to achieve those goals. *These meetings will take place in May, June and July.*

V. Hold a second community meeting at which the draft plan will be presented and comments about the content of the plan will be received. *Staff anticipates this meeting taking place in August.*

VI. Another series of advisory committee meetings will be held. These meetings are designed to advise staff as they develop the final draft of the plan. Comments and suggested revisions from the second community meeting may be incorporated into the final plan. *These meetings will likely take place in August and September.*

VII. A third community meeting will be held to present the final staff draft of the plan. *This meeting will likely take place in September.*

VIII. The plan will be presented to the Planning & Zoning Commission for review. *Staff anticipates P&Z review of the plan in October.*

IX. The plan will be presented to City Council for approval and adoption as an amendment to the City's comprehensive plan. *Staff is anticipating City Council review of the plan in November.*

The Advisory Committee: The advisory committee's function is to provide guidance to staff. The draft plan which is presented to the Planning & Zoning Commission will be staff's recommendation following the outlined work with the larger community and the advisory committee. It is important that the advisory committee represent the groups that have a direct stake in the area (i.e. property/business owners, residents of adjacent neighborhoods). It is also important that the committee have the proper balance which reflects the degree to which each group may be affected by the plan.

Staff is proposing the following makeup for the advisory committee:

* Seven property and/or business owners.

* Four representatives from adjacent neighborhoods.

* One member of City Council as a liaison.

* One member of the Planning and Zoning Commission as a liaison.

Staff is proposing the following method of selecting the advisory committee;

* The **seven (7) property and/or business owners** will be elected by a vote of other property/business owners. A ballot will be sent to each of the property/business owners who attended the informational meeting or who called and expressed interest in the process (letters announcing the meeting were sent to property owners and business owners).

* The **four (4) representatives from adjacent neighborhoods** will be selected by the neighborhoods. There are four principal residential areas surrounding Charlotte Street. Each of those four neighborhoods will select one representative to serve on the committee.

* The steering committee was addressed at the March 6, 1996, Planning & Zoning Commission meeting. **One member of the Planning & Zoning Commission** has volunteered to serve as a liaison to the committee.

* Staff requests that **one member of City Council** be selected by Council to serve as a liaison to the committee.

The Planning and Development Department recommends that Council concur with staff's recommended procedures and select a liaison for the advisory committee.

Mr. Don Williams expressed concern over the lack of notification regarding the Charlotte Street small area plan.

Mr. Mike Matteson, Urban Planner, said that all property owners within the corridor area will receive the ballots and also notification of community meetings. The staff will attempt to notify the surrounding neighborhoods of community meetings through their association newsletters and distribution of flyers. Mr. H.K. Edgerton asked that the NAACP be included on that mailing list.

Mr. Andrew Hart, resident of Baird Street, suggested a committee make-up.

At the request of Council, Ms. Cogburn explained what type of issues are generally looked at in a small area plan, noting that in many instances the plan does not get to the level of zoning. The plan, however, may be a good entry into the UDO mapping.

Ms. Bernie Wolfe made suggestions regarding committee meetings and suggested that a representative from the Historic Resources Committee be included to the Advisory Committee because there are two National Register Historic Districts abutting Charlotte Street.

Ms. Roberta Greenspan, representative of the Hillside/Broad Street neighborhood, noted that whatever happens on Charlotte Street affects the property owners at least three streets back.

Ms. Leni Sitnick, owner of property not in the corridor study area but in the immediate area, noted that it is very important for people in the area to be notified similar to the notification process when rezonings are considered.

After a lot of discussion regarding the balance make-up of the Advisory Committee, Councilman Cloninger moved to accept the staff's recommended procedures outlined above with the following make-up of the Advisory Committee: 4 representatives from adjacent neighborhoods (each neighborhood association will select one representative); 1 person representing the institutions within the corridor; 2 residential property owners within the corridor; 5 representatives would be business property owners within the corridor; 1 business tenant within the corridor; 1 City Council liaison; 1 Planning & Zoning Commission liaison; and 1 Historic Resources Commission liaison (liaisons having no vote). This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Hay voting "no". Councilman Hay felt that the Committee make-up needed more residential owners.

It was the consensus of Council to appoint Councilman Sellers as the City Council liaison to the Charlotte Street Small Area Plan Advisory Committee.

CONSENT:

Hominy Creek Bridge Acceptance

Summary: The N.C. Dept. of Transportation ("NC DOT") has developed plans to relocate N.C. 191, Brevard Road, between I-40 and I-240. Upon completion of the relocation of this section of N.C. 191, the

current N.C. 191 and the Hominy Creek Bridge will be left and ownership given to the City.

NC DOT, upon completion of the N.C. 191 relocation will, at no cost to the City of Asheville, transfer ownership of the Hominy Creek Bridge #216 to the City of Asheville. Upon acceptance of ownership of the bridge, the City will become responsible for all liability and maintenance of the bridge and shall hold NC DOT harmless from any and all claims for damages and liabilities associated with the bridge. NC DOT will require the bridge be limited to pedestrian and/or bicycle usage only. NC DOT reserves the right to inspect the bridge for structural integrity and proper maintenance and should the bridge not be properly maintained in accordance with OSHA standards or is being used for other than pedestrian or bicycle traffic, NC DOT will have the right to remove the bridge at the expense of the City.

NC DOT will continue to own the right-of-way and property upon which the bridge is located, but will provide the City with an access easement for maintenance and emergency purposes. The City will agree to maintain the access easement and hold NC DOT harmless from any claims for damage and/or injury which may result from the public use of said access. If said access is to be utilized as part of a bicycle facility or pedestrian park in conjunction with the bicycle and pedestrian bridge, the City will be required to obtain an encroachment agreement from NC DOT prior to such usage.

The City will be responsible for placement of proper signage for the bicycle and pedestrian use of the bridge and such signing plan must be approved by NC DOT prior to placement.

The agreement requires the City to be responsible for removal for removal and proper disposal of any lead paint residues on the bridge, but there are at present no paints or any type on the bridge. The City must also comply with any Federal or State environmental and safety regulations, specifications, procedures, and policies.

Prior to relinquishing ownership of the bridge, NC DOT will repair spalls in the concrete and add pipe rail on top of the existing bridge railings to meet AASHTO requirements for bicycle railings.

Since the Hominy Creek bridge is very close to the French Broad River, the Farmers Market, the Blue Ridge Parkway, Pisgah National Forest, Biltmore Square Mall and Biltmore Estates, the opinions of Parks and Recreation, Planning and Public Works is that the City should execute the municipal agreement between NC DOT and the City for transferring ownership of the Hominy Creek Bridge #216 from NC DOT to the City of Asheville for future use as a pedestrian and bicycle facility.

Establish Fair Reuse Value for Disposal Parcel 5 of the Head of Montford Redevelopment Project

Summary: Disposal Parcel 5 is located at the northwest corner of Montford Avenue and Courtland Avenue. It is generally rectangular in shape containing 8,712 square feet. Two buildings, a former service station and a small cottage are located on the property with each comprising about 700 square feet. It is zoned R-4 High Density Residential and its highest and best use per the appraisal is commercial to the extent permitted by the zoning. The R-4 district is primarily for residential land use. Certain professional, service, executive, governmental and administrative offices are permitted. Businesses which

commercially create, display, store, exchange or sell goods, wares or merchandise on the premises are excluded.

Disposal Parcel 5 was appraised by David Moore, MAI, and the appraisal was reviewed by Francis Naeger, MAI, who concurred and recommended the appraised value of $39,000 as fair reuse value.

Purchase and Installation of Playground Equipment for Weaver and Murphy-Oakley Parks

Summary: In an effort to make the City's playgrounds accessible under the ADA Act, the Parks & Recreation Department undertook an extensive review and selection process to obtain the best qualified supplier of handicapped-accessible playground equipment and accessories.

In June 1995, bids were solicited from ten manufacturers of playground equipment information. Also manufacturers were asked to give addresses of any nearby locations where their equipment had been installed. During the review and selection process, visits and inspections were made of the playground sites. Findings were documented on the condition of the existing equipment based on age, use and exposure to weather.

Staff also advertised and conducted community meetings to obtain additional input as to the types and styles of playground equipment most requested by the community.

The Parks & Recreation Department has an existing program of replacing worn and outdated playground equipment, and has used several processes to determine which parks are most in need of retrofit with new playground equipment. Based on these processes, the Department has selected Weaver Park and Murphy-Oakley Park for retrofit through this program.

The Parks & Recreation Department has gone through the required Request for Proposal process and has determined that lowest qualified bidder to be Miracle Recreation Equipment Company. Based on identical design specifications for a single-unit play structure to be installed in our parks, the three lowest qualified bidders are as follows (the change orders listed below are to replace all open handrails on the equipment to handrails with spokes, for safety reasons):

Weaver Park

	Miracle	BCI Burke	Game Time
Single Play Unit	17,732	23,674	26,448
Accessory Play pieces	10,680	8,431	8,680
Change Order: Addition of safety railings	3,100	3,532	3,864
Total Contract	31,512	35,637	38,992

Murphy-Oakley Park

	Miracle	BCI Burke	Game Time
Single Play Unit	17,732	23,674	26,448
Accessory Play pieces	8,344	6,820	6,287
Change Order: Addition of safety railings	3,100	3,532	3,864
Total Contract	29,175	34,026	36,599

The Parks and Recreation Department recommends approval of these two contracts, and the corresponding change orders, to the same contractor, Miracle Recreation Equipment Company, through their approved distributor, Larry Hasley & Associates, Inc.

It was the consensus of Council to proceed with appropriate actions on the Consent Agenda at the next formal meeting.

OTHER BUSINESS

Boards and Commissions Vacancies

Vice-Mayor Field distributed to City Council the upcoming quarterly vacancies for various boards and commissions. As an official duty of the Vice-Mayor to oversee the process of board and commission appointments and for her and the committee members to make recommendations to the entire Council, she recommended that if someone has served one term, is interested in reappointment and has met the attendance requirements, that that person be reappointed to serve a second term.

Subject to the City Clerk verifying the criteria above, she recommended the following: Marvin Chambers and Rocky Fulp be reappointed to the Bele Chere Board of Directors; Henry Southworth, Dick Shahan, Lonnie Blair and Janice Van Dine be reappointed to the Citizens/Police Advisory Committee; Richard Bowman and Tom Muncy be reappointed to the Civic Center Commission; Beth Arrowood be reappointed as Chairman to the Civil Service Board; Steve Curtis and Grant Osborne be reappointed to the Crime Stoppers Committee; William Estes and Lewis Isaac be reappointed to the Recreation Board.

It was the consensus of City Council to proceed as outlined above by Vice-Mayor Field.

YMI Emergency Funding

Vice-Mayor Field said that the YMI has requested funding from the City and County to cover operating cost for a six month period, while the organization seeks additional ongoing funding to continue operations and programs. City staff and the City Council YMI Committee have met with representatives of YMI, and subject to certain conditions, staff recommends that funding not to exceed the amount of $16,000 ($4,000 cap per month) be provided to cover operating costs (excluding salaries, fringe benefits and travel) for the period March - June, 1996. The Committee felt it was very important for the City to maintain the building in the public domain. She explained that Buncombe County is willing to help out for a couple of months.

Vice-Mayor Field advised Council that the YMI's insurance rates were $2,400/year and when they attempted to see if better rates could be secured, they were advised that they were considered to be a museum and their rates rose to $6-7,000/year. Because of that increase, they had to drop their insurance and now can't rent out their space. She noted that the City's Risk Manager will try to help them secure some insurance.

Conditions of the funding are as follows: (1) YMI provide the City with current monthly financial statements; (2) The City will pay on a reimbursement basis. YMI will present invoices for operating costs to the City before City funds are disbursed; and (3) YMI will provide the City with documentation and assurances, that no City funds are used to

pay prior liabilities and that all such liabilities are being satisfied on a current basis.

She outlined the debts the YMI has incurred. She said that there is a possibility that the Arts Alliance might take the responsibility of getting a grant for them from the State of North Carolina to pay off the debt on the building because it's a historic building.

An agreement among the City, the County and the YMI outlining the City's conditions will be presented for Council action.

Vice-Mayor Field moved to proceed with appropriate actions at the next formal meeting. This motion was seconded by Councilman Skalski and carried unanimously.

Bid to Host the Big South Conference

Councilman Cloninger said that the Asheville Sports Committee has asked for the City of Asheville to bid for the Big South Conference 1997 Men's and Women's Basketball Tournament (February 26 - March 3, 1997). He outlined the following:

Host - City of Asheville

Co-Hosts - The Asheville Sports Committee
Volunteer Support
The Junior League of Asheville
Sponsorship and Ticket Sales
UNC-Asheville
Event Coordination
Tourism Development Authority ("TDA")
$20,000 Commitment
Coca Cola
Title Sponsor - $30,000
Request is Pending

He then outlined the following budget:

Income:	
Coca Cola	$ 30,000
TDA	20,000
Conference Ticket Sales (800 @ $25) Requirement	20,000
Sponsorships (Junior League)	25,000
Ticket Sales (Junior League and Civic Center 1500 @ $25)	37,500
TOTAL INCOME	$132,500
Expenses:	
Civic Center Rent	$ 37,000
Conference Guarantee	70,000
Miscellaneous Hospitality Expenses	15,000
TOTAL EXPENSES	$122,000
Surplus to Junior League	$ 10,500

Councilman Cloninger said that if Coca Cola decides not to participate with their $30,000, then the Asheville Sports Committee will withdraw their request to submit a bid.

There was some discussion of the Civic Center rent and if that rent could be flexible of up to $15,000 should a shortfall occur.

Councilman Hay, City Council liaison to the Civic Center Commission, said that the Commission had some concerns over this request. They did not think the Southern Conference was good for the Civic Center and now that the Civic Center is breaking even, anything that might threaten that positive direction is not something we should be supporting. Another concern is that the Big South Conference will be displacing other activities planned for that weekend. He noted that perhaps the possible $15,000 shortfall should not come from the Civic Center rent, but from another expense. Another concern expressed is the whole concept of who is running the show. The Southern Conference was a major undertaking by the Civic Center and they do not want to promote this event. Even though UNC-Asheville is shown to be the event coordinator, the Civic Center might very well within the year be drawn into being the coordinator. He suggested that whatever the City decides, that they be very clear about what the City will be doing and what we expect of the co-hosts.

Even though Councilman Cloninger felt this Conference would be very good for the City's economic development, he understood the Civic Center's concerns and felt the points raised were valid.

It was the consensus of Council to invite interested parties, for example the Civic Center Commission, the Asheville Sports Committee, the Civic Center Director, and others, to the next formal Council meeting to discuss this matter further, noting that the deadline for submitting the bid is April 10, 1996.

Closed Session

At 5:15 p.m., Councilman Worley moved to go into Closed Session as authorized by G.S. 143-318.11 (a) (3) in order to preserve the attorney-client privilege, including matters related to the lawsuit involving Lamont Baird vs. the City, County and others (File # 1:95 CV 63). This motion was seconded by Councilman Skalski and carried unanimously.

At 6:30 p.m., Councilman Worley moved to come out of Closed Session. This motion was seconded by Councilman Skalski and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:30 p.m.

Magdalen Bandy
CITY CLERK

Ramsey Hay
MAYOR

Tuesday - April 9, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Councilman M. Charles Cloninger; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; Assistant City Attorney Patsy Meldrum; City Manager James L. Westbrook Jr.; and Deputy City Clerk Phyllis Corns

Absent: Vice-Mayor Barbara Field; Councilman Edward C. Hay Jr.; City Attorney William F. Slawter; and City Clerk Magdalen Burleson

INVOCATION

Councilman Sellers gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 7-13, 1996, AS "BUILDING SAFETY WEEK"

Mayor Martin proclaimed the week of April 7-13, 1996, as "Building Safety Week" in the City of Asheville. He presented the proclamation to Fire Chief John Rukavina and Director of Building Safety Terry Summey.

B. PROCLAMATION PROCLAIMING APRIL 13, 1996, AS "DR. MARTIN LUTHER KING JR. MEMORIAL DAY"

Mayor Martin proclaimed April 13, 1996, as "Dr. Martin Luther King Jr. Memorial Day" in the City of Asheville. He presented the proclamation to Ms. Oralane Simmons, who briefed the Council on some activities taking place that day specifically noting the unveiling ceremony of the bronze statue of Dr. King.

C. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 14-21, 1996, AS "DAYS OF REMEMBRANCE FOR THE VICTIMS OF THE HOLOCAUST"

Mayor Martin proclaimed the week of April 14-21, 1996, as "Days of Remembrance for the Victims of the Holocaust" in the City of Asheville.

D. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 21-27, 1996, AS "NATIONAL VOLUNTEER WEEK"

Mayor Martin proclaimed the week of April 21-27, 1996, as "National Volunteer Week" in the City of Asheville. He presented the proclamation to Ms. Linda Plemmons, with the Alzheimer's Association, who briefed the Council on some activities that would be taking place during the week.

E. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 18-28, 1996, AS "HERITAGE CELEBRATION WEEK"

Mayor Martin proclaimed the week of April 18-28, 1996, as "Heritage Celebration Week" in the City of Asheville. He presented the proclamation to Ms. Susan Bakewell who briefed the Council on some activities that would be taking place during the week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE 865 HAYWOOD ROAD AND 2 DYSART STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY

Mayor Martin opened the public hearing at 5:24 p.m.

Deputy City Clerk Corns presented the notice to the public setting the time and date of the public hearing.

Assistant City Attorney Meldrum said that Mr. Joseph Herrin, attorney for the petitioner, has submitted a letter to the City Clerk dated April 3, 1996, which letter reads in part "It is my understanding that the aforementioned matter is set to be heard before City Council on April 9, 1996. After review of this matter, we have found that it is necessary to close two alleyways located on the property prior to this matter being heard before City Council. The tax maps for this property show only one alleyway. However, the original plat on file shows two separate alleyways. Therefore, we would respectfully request that this matter be rescheduled from April 9, 1996, meeting of City Council. We plan to be filing a Petition to close these alleyways within the next week."

Councilman Worley moved to continue the public hearing until June 11, 1996, without further advertisement. This motion was seconded by Councilman Cloninger and carried unanimously.

B. PUBLIC HEARING TO CONSIDER A PARKING MODIFICATION FOR BLUE RIDGE CENTER

Mayor Martin opened the public hearing at 5:26 p.m.

Deputy City Clerk Corns presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that Blue Ridge Center is proposing additions to their existing facility at 356 Biltmore Avenue. In addition to group development approval, the petitioners are requesting a variance from Section 30-3-11 of the zoning ordinance for a reduction in parking.

Three separate additions to the facility are proposed which total roughly 13,000 square feet. The property is split-zoned. The west half of the property is zoned CS Commercial Service and the east half if zoned OI Office Institutional. Access to the facility is provided from Biltmore Avenue. The site plan meets all of the development standards in the CS and OI zoning districts.

A variance of 17 parking spaces is requested to allow a total of 195 parking spaces (Section 30-3-11 of the zoning ordinance requires 212 spaces for this use).

Blue Ridge Center feels that the proposed parking is adequate to serve their needs and that it would be a financial hardship to provide the additional spaces. This information may be considered by the City Council in evaluating the variance from the zoning ordinance.

The Planning Department staff is recommending approval of the group development. At the Planning & Zoning Commission meeting held on April 3, 1996, the Commission unanimously approved the group development and the modification request.

Mayor Martin closed the public hearing at 5:27 p.m.

Councilman Skalski moved to approve the group development site plan and the parking modification for Blue Ridge Center from 212 parking

spaces to 195 parking spaces. This motion was seconded by Councilman Worley and carried unanimously.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 96-54 - RESOLUTION REQUESTING THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO TEMPORARILY CLOSE THE PEDESTRIAN OVERPASS OVER I-240 AT STEWART STREET

Mr. James Cheeks, Traffic Engineer, reviewed the information presented to Council at their worksession on April 2, 1996, by saying that the City has received a petition from residents of Stewart Street and surrounding areas to close the pedestrian bridge across I-240 at Stewart Street.

The petition received by the City stated that "The bridge has been the source of problems in our neighborhood for many years. We are constantly plagued by noises of motorcycles, loud pedestrians and boom boxes. Since the former Rankin School has been demolished, we see no necessity for this bridge." After researching this request, the City finds:

- The Pedestrian Task Force of the Asheville Area Metropolitan Planning Organization ("AAMPO") is against closing or removing this pedestrian amenity.

- The Transportation Advisory Group of the AAMPO commented that the City should not close a pedestrian bridge, as Asheville is so lacking in other pedestrian amenities.

- The Bikeway Task Force of the AAMPO do not agree with closing any pedestrian facilities. However, they recommended that pedestrian facilities be located where needed.

- Pedestrian facilities maps completed in response to a request by the Pedestrian Awareness Community Evaluation Committee ("PACE") show that the Stewart Street Bridge is a part of the West Asheville pedestrian network.

- NC Dept. of Transportation ("NC DOT") is in the process of formulating a project to widen I-240. NC DOT's policy is to replace pedestrian amenities with any existing major construction project. There is a question as to whether closing an existing facility would jeopardize having it replaced in a more appropriate location should the City desire.

- The Transportation Advisory Committee of the AAMPO ("TAC") has not had an opportunity to address this issue and offer their recommendation due to their March monthly meeting being canceled.

- The pedestrian bridge across I-240 is under the jurisdiction of NC DOT. Historical data indicates that the pedestrian bridge was constructed after overwhelming support from the City of Asheville and residents of this area. This residential neighborhood was separated due to the construction of I-240.

- The Asheville Police Department would not be opposed to the removal or closure of this walk over bridge.

- The Public Works Department has installed a metal barrier with reflective sheeting at both ends of the Stewart Street bridge to deter motor vehicle access.

- Richard Nantelle, President of the Coalition of Asheville Neighborhoods, states that his group and other neighborhood groups across the City are in support of the proposal to close the pedestrian bridge.

Staff recommends that the Transportation Coordinating Committee of the AAMPO make its recommendation to the TAC. They also request that the TAC host a public hearing to get all interested parties together to discuss the issue. Then, the TAC will be able to make a recommendation to City Council.

Mr. Richard Nantelle, representing the Haywood Road Historical District Committee, noted the following two additional reasons that the pedestrian bridge should be closed: (1) Even though the neighborhood on the west side of the bridge petitioned Council to close the bridge, the closing would also benefit the people on the east side of the bridge (Pisgah View Apartments); and (2) The pedestrian bridge is only a convenience for some and when conveniences are abused, they can be taken away.

Ms. Minnie Jones, President of the Resident Association for the Pisgah View Housing Authority, stated that she has only recently been notified of this matter and the Association has not had an opportunity to review this request.

When Councilman Skalski asked Mr. Nantelle his thoughts about Ms. Jones' concern, Mr. Nantelle said that the pedestrian bridge has been an on-going problem on the west side of the community. He felt that both neighborhoods should be given an opportunity to investigate the matter and then give Council their thoughts.

Mr. Dick Rice stated the closing of the pedestrian bridge does not deprive anyone on either side of the bridge access to either of the two neighborhoods.

Mayor Martin noted that TAC will host a public hearing to get all interested parties together to discuss the issue.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Sellers moved for the adoption of Resolution No. 96-54, with specific language in the letter to NC DOT state that the City's request for the temporary closing of the pedestrian bridge is not an indication that the City believes pedestrian links across I-240 are not needed. Indeed, the City believes there may be other pedestrian links needed in other, more appropriate locations. This motion was seconded by Councilman Worley and carried unanimously.

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B. REQUEST TO ACCEPT SHADY CIRCLE AS A CITY SYSTEM STREET

Mayor Martin said that a Council member has asked that this item will be postponed until the next formal meeting, which is April 23, 1996.

C. **CONSIDERATION OF THE CITY'S PARTICIPATION IN A BID TO HOLD THE BIG SOUTH CONFERENCE MEN'S AND WOMEN'S BASKETBALL TOURNAMENT**

Councilman Cloninger that after positive discussion at the worksession held on April 2, 1996, regarding this item, City Council has been asked by the Asheville Sports Committee for the City of Asheville to bid for the Big South Conference 1997 Men's and Women's Basketball Tournament (February 26 - March 3, 1997). The deadline for submitting the bid is April 10, 1996. He stated that he outlined the proposed budget at the worksession for Council to consider, specifically stating that if Coca Cola decides not to participate with their $30,000, then the Asheville Sports Committee will withdraw their request to submit a bid.

Mayor Martin noted that the discussion at the worksession on April 2, 1996, was quite positive about the benefits that the Big South Conference might bring to Asheville, even at the risk of having, perhaps, a small loss. There is a great deal of economic benefit that could accrue and also it would be good public relations for the City of Asheville.

When Mr. Ralph Bishop asked why the taxpayers of the City of Asheville should subsidize the motels and restaurants in Asheville, Mayor Martin explained that the City does derive sales tax revenues from visitors.

Mr. Richard Schumacher, Chairman of the Asheville Civic Center Commission and member of the Asheville Sports Committee, opposed the proposal being discussed. He, at this time, has not heard whether Coca Cola has decided to participate or not. He said that last Thursday the Commission met, at a special meeting, and made the following motion, which was seconded and approved: "The Asheville Civic Center not be held responsible, either directly or indirectly, for any losses arising from the Big South Men's and Women's Basketball Tournament in the event a bid is submitted by the City of Asheville and accepted to host the Tournament in Asheville."

Mr. Shumacher then gave Council background information leading up to the motion. "As I had done approximately 4-5 years ago, when the Asheville Sports Committee negotiated a new contract for the Southern Conference, I presented this most recent proposal to the Civic Center Commission last Thursday. However, unlike that time, 4-5 years ago, when I recommended that the Civic Center go along with support of that particular proposal, because the Civic Center was asked to promote it, and I presented this to the Civic Center Commission at that time, which was somewhat skeptical and all the members now are new from back then. However, I recommended then that they go along with it, which they did. But, I can't support it at this time for a number of reasons. The first reason has to do with the, I guess, with the benefit of experience or hindsight, whatever, and also the fact that the last two years that the Southern Conference was hosted here, the Civic Center lost directly a little over $108,000 for the years 1994 and 1995. That loss was absorbed by the City taxpayers in a form of a larger general deficit for those two years exceeding half a million dollars total, for the two years. The second reason has to do with the Civic Center's goal. The latest goal that we've received from Council is that we are supposed to make the Center break-even. We are told to submit a balanced budget. The Civic Center Commission believes that this proposal, for the Big South Tournament, is too risky financially. There are many other events out there that are good for the City, that are not as financially risky

and that don't require as much time on the part of City staff to put on as a basketball tournament does and I'll get into a little bit of that later on due to my own personal experiences in working with that with the Southern Conference. The next reason is that, under the proposal, all of the surplus, or profit, goes to a group that won't take any financial responsibility in the event of a loss. This doesn't make any sense, to me, no matter what way you look at it. And then on top of that, the same group cannot even commit, at this point, that they can definitely or want to do it, because they've got to submit it to their general membership and that takes about a month to do. So, my question is that if this group decides that they don't want to do this, then who are we going to get to step in and sell approximately $62,500 worth of sponsorships and ticket sales, that we're counting on, which I personally think is about $15,000 too high of an estimate to begin with. My next reason is the lack of participation by the full Asheville Sports Committee. This seriously concerns me. We have 12 members, according to the latest list that I have. Only four members have attended some of the meetings. I'm the only Sports Committee member who has attended all of the meetings. At our second meeting, where I was the only Asheville Sports Committee member present, it was stated by a representative from the Tourism Development Authority that they had conducted a survey, I think she said a survey, or some sort of study, of the economic impact on this area that first weekend of March when the Southern Conference tournament has traditionally been held here, and of course this year it was not held here, and that they barely noticed a glip in the overall economic impact on the area for that particular weekend this year. We were also told that some of the hotels said that they preferred convention guests over basketball tournament guests because some fans don't stick around after their team is eliminated and after the first days worth of games, you have half of the teams being eliminated and the second day you have another half being eliminated of the remaining teams. I truly wish that other members of the Sports Committee had been present at that meeting to hear those statements. I think that has sort of been glossed over. This is basically when I decided that I could not support this proposal that was being talked about. By way of personal information, we had the option for this year - we could have done it but the Asheville Sports Committee decided not to exercise the option for the 1996 Tournament because we saw and looked at the huge losses from the previous years and there was going to be even a bigger loss this year and decided not to exercise the option for this year. I was asked, as a member of the Sports Committee, to poll, call, some restaurants in the area, particularly in the downtown area, to see if there was any possibility that they would be willing to contribute some money to help offset some of the losses and see whether or not we'd be interested in trying to keep it this last year. And, the response that I got, and I called approximately 20, was at best lukewarm - to the extent that 'yea, I think we need to keep it here, but no, I'm not going to give you any money to help', to one restaurant owner telling me in words that I can't use in public, with words to the effect that 'I wish I'd never heard of it or seen it and I can't wait for them to leave because it keeps all of my regular customers away that weekend because of the parking problems'. So that was not a very encouraging sign to me that there was a tremendous ground swell of supporter interest to try to keep it here. The next reason is the bottom line for sports conferences and teams is the direct financial benefits, or money that they receive. We've experienced this locally, of course, and we see it happening regularly at the national level. I firmly believe that the City of Asheville should approach this the same way, by looking at the direct economic benefit as opposed to some, what's good for the City in measurable type benefits that I've heard talked about. On a personal note, my opposition to this proposal has nothing to do with any sort of a political or personal agenda. I personally attended all, except maybe

three or four, at the most five, I can't remember that may, but I may have missed that many, of the approximate 90 games that the Southern Conference game played here during their 12-13 year run, even before I was a member of the Sports Committee and on the Civic Center Commission. As a Sports Committee member responsible for the players awards and honors banquet, which was held in conjunction with the tournament, I've experienced first-hand how much time and effort is required, not just by volunteers, but by Civic Center staff as well. I feel that the time required for a tournament like this exceeds just proportionately the amount of time for the potential benefits that we might get from it. Again, from a personal note, to show that I'm not anti-basketball, I love going to games and watching them. But I've felt an obligation to put my duties and responsibilities as a member of the Civic Center Commission and the Sports Committee ahead of my personal preferences. For the reasons above that I've just gone through, that's why I can't and could not recommend to the Civic Center Commission last Thursday that we support and go along with this."

When Mayor Martin questioned Mr. Schumacher why he sent a letter to Mr. James Bailey of Coca Cola saying that the Commission was not interested, Mr. Shumacher said he did that for several reasons. "One was that in the fact, Coke has given money, all in one lump sum. We look at this matter with, Coke has the exclusive use of products in the building. We look at that separately. The money for that is a separate issue from whatever money they want to contribute to sponsoring this tournament. They also have not paid us anything for this year and that's past due - it was due on March 1. For those reasons, I sent the letter. I just wanted to clarify it with them that whatever money they chose, and we hope they would do it, I think I indicated that in the letter, that whatever money those chose to contribute for the sponsorship that they do that, but also, on the other hand, that we, on the Civic Center Commission want to make sure that they understood and it was clear to them that we would be wanting to talk to them about some money for the product exclusivity. It's a yearly thing, we don't have to go with them but it is something, a commodity, that the City through the Civic Center, has, as far as there is a price for that and that's very typical and standard."

Mayor Martin wondered if that letter might have an influence on the decision on the part of Coca Cola to fund or not to fund. Mr. Shumacher said "that I suppose it could. I'm not denying that it could influence their decision. I'm just saying that I felt that that needed to be clarified with them."

Mayor Martin said that his point in bring this up is that the function of the Civic Center Commission is an advisory commission to Council. "I find it a little bit of perhaps you may have overstepped the bounds, trying to contact Coca Cola directly. That would be a management function and we would prefer that, in the future, that the Civic Center Commission would report to Council, as we, in the end, would be making a decision whether to go with the Big South bid or not and be supportive or not. And, you're input, certainly, would be valued and we would want to hear it."

Councilman Worley agreed with Mayor Martin on the timing of the letter to Coca Cola. He asked if Mr. Schumacher coordinated or worked with anyone else within the City organization about whether that such a letter should go out? Mr. Schumacher responded that he did not. Mr. Schumacher did ask Mr. Scott whether or not the Civic Center received the money from Coke and then took it upon himself to write the letter.

Councilman Worley asked that given the nature of the negotiations at the time, wouldn't it have been a good idea to coordinate the timing and the mailing and perhaps even the wording of such a letter. Mr. Schumacher disagreed with Councilman Worley and stated that he knew the Civic Center Commission was an advisory board, but the Commission has done this in the past when people haven't paid what they have agreed to pay and they have never had to go to the City to ask what they should do. He felt he was just following what has been done in the past.

Mr. Louis Bissette, representing "the Asheville Sports Committee, which is simply a committee of the Chamber of Commerce which was formed back in 1989, when the Southern Conference was considering leaving the City and it was felt then by members of the Chamber and I think members of the City that the Southern Conference had been a good event for us and we would like to keep it, if at all possible. And so, the Sports Committee has acted as a liaison, as a catalyst, contrary to what Mr. Schumacher says, the Sports Committee has never negotiated a contract with the Southern Conference. Tom Honeycutt's back here and can tell you that. Those contracts were negotiated with the City and not the Sports Committee. We're just a bunch of people who want to try to bring some good sporting events to the City. I have been in touch today with Coca Cola and I'd like to make a little bit of a statement here and say that after having talked to Coke today, it's my recommendation that the City of Asheville not submit a bid for the 1997 Big South Men's and Women's Basketball Tournament. Coca Cola's not been able to confirm it's title sponsorship and we simply don't have the time to secure another title sponsor since the bid is due tomorrow. And I wouldn't recommend to anybody that we submit a bid without that money in place. I will say that my contact at Coca Cola was Jim Bailey, coincidentally. Been working with him for 2-3 weeks. He had indicated that he was working with Atlanta and was trying to put this together for us. When I reached him today he said, what's going on down there. He said, I've been talking to you for a couple of weeks and all of a sudden on my desk appears a letter from some guy named Schumacher saying that the City's not interested in the tournament. Whether that had any bearing on their decision, I don't know. He said, you know, I need to find out what's what down there and he said, I would be willing to continue to work on it but I understand that you have to have the bid in tomorrow and if you have to have word from us today, the answer is no. So that's how that worked out. In any event, I'm not sure if we would have been successful in securing the bid for the Big South Conference Tournament in light of the public opposition of the Civic Center management to the tournament. They've opposed it at ever turn. We tried to bring them in from the very first and you simply can't secure a competitive tournament when your arena makes it pretty plain that they're not interested in it. Now if you were the Big South, after hearing Mr. Schumacher and having bids from Lynchburg and Rock Hill and I don't know from where else, would you want to come to Asheville? I don't think so. I do want to thank the Junior League of Asheville who had indicated that they were willing to take this project on. The Tourism Development Authority and the Conventions and Visitors Bureau and Susan Dale is seated back here. She's done a lot of work, in fact, she worked all yesterday and last night to prepare a package to get rates from all the motels and hotels for us to submit with our bid - she delivered it to me today and it was a lot of work for nothing Susan, but I appreciate what you did. And I appreciate what the Tourism Development Authority did in unanimously approving a $20,000 contribution to this effort. The Chamber of Commerce has backed this and UNC-A, Tom Honeycutt is back here. Tom has worked, has talked to the Commissioner numerous times during this process. He has sent me a fax yesterday indicating all the things that UNC-A would be willing to do if we got the tournament here. And we appreciate that, Tom. So, there were a lot of people working. We

didn't have all the members of the Sports Committee. I mean, we had a small group that was trying to see if we could put this thing together. You don't have all 12 members, although I've talked to most during the course and the only one that I can think of who is opposed to it is Mr. Schumacher. Maybe he's talked to some others, I don't know. I'd also like to make a few comments about the Southern Conference Tournament, and I do that as a, as Mr. Bishop would say, as a resident and taxpayer of the City of Asheville. I live in the City. My business is in the City. I pay a lot of taxes to the City. The Southern Conference was a great event for our City. It was sponsored by many businesses and returned much to our area. Both economically and in terms of public relations. ESPN every year, national television coverage with the big Asheville Civic Center logo right in the middle of the floor, does that mean anything to a tourist City? Maybe not. The tournament did lose money in 1995 and I don't want to go into all of the reasons for it, but there are a number of reasons. But I would like to ask Mr. Schumacher to go back and look at the Civic Center records. And when you do this, I want you to look at your concession income, because they never talked about concession income. And I want to see for the 12 years that the Southern Conference was here, how much did we lose over that period of time. I'd be interested. And I think, although he must be talking to a totally different set of hotel and motel people, they seem to be very interested in this bid and he must be talking to a whole new different set of merchants and restaurant owners, because the ones I've talked to are very supportive of the Southern Conference. And having a basketball tournament. The Asheville Sports Committee, once again, has no vested interest here. It's members don't stand to profit from this tournament or any other tournament. We simply tried to ask as a catalyst to bring various groups together to bid what is a very small college basketball tournament. It's not a big deal. We did this together with the Junior League, the Chamber, the TDA and UNC-A in order to try to bring a family oriented sporting event to our community. It didn't work. And as a taxpayer, I have a problem with the system that has been installed at the Civic Center. As I understand it, and the goals are set by the Civic Center and compensation is paid at the Civic Center, based solely on the Civic Center's bottom line. So the importance of an event to the City as a whole doesn't count. It just looks, specifically that event, that brings money to the Civic Center. In my mind, that creates a serious conflict of interest between the Civic Center and the community. City Council has been very helpful in this matter but I think we all need to keep in mind that the Civic Center is not a private entity - it's owned by the people of the City of Asheville and it should be programmed for their benefit. And I hope that the City will, if it has an opportunity, look again next year at perhaps the 1998 Big South Tournament. I think it's good for our City. I think it brings a spirit to our City that a lot of things, other things, don't. That's just one taxpayer's opinion, but it is mine. And I appreciate your support during this thing, and I hope that we'll be able to bring some other great things to our City."

Mayor Martin thanked all those who worked on this bid. It is something that perhaps can be revisited in the future.

Councilman Worley said that the matter was brought to Council at their worksession a week ago and any objective reading of the mood of Council at the worksession showed that the Council was leaning fairly strongly towards supporting the bid for the Big South Tournament. City Council is the policy-making body for the City of Asheville and he couldn't help but feel today that their ability to make policy and set policy with respect to the Big South Tournament has been effectively side-stepped and taken over by another commission. He believed the cost of the Big South Tournament was relatively low, certainly compared to

the Southern Conference, and the risk was even lower. Talk today surrounded losses and covering losses, but the projections were to actually make a profit and the loss aspect comes from what is wisely viewed as a worse case scenario. Even if it had suffered a loss, it would have been a small loss.

Councilman Skalski felt there was a couple of issues that the City needed to address with respect to putting on either regional or national sporting events. He felt we needed to have a policy, if the government is going to be involved in a partnership with public and private money, on how the City participates in those events. He felt that more lead time was needed for discussion before bid deadlines so that problems can be addressed. He also said that there is a 2% room tax that's put in a fund for advertising tourism. Perhaps some of that money could be set aside in order to deal with issues like this.

Addressing Mr. Schumacher, Councilman Cloninger said that he felt it was "entirely appropriate for you, as head of the Civic Center Commission to come before us today and render your opinion as to whether we should submit a bid for the Big South Tournament. And also convey what the feeling of the Commission is as to what the City should do regarding the Big South Tournament. However, I believe it is entirely inappropriate for you to have intentionally undermined this City Council's ability to make the ultimate decision as to whether this City would submit a bid. And I will tell you, sir, that I think that you're letter to Mr. Bailey of Coca Cola was completely out of line. You had no authority to send it and you misstate what the situation is with regard to this. And I would just like to go through a couple of points in this letter. First of all, in the first paragraph, you say that the Asheville Civic Center Commission recently decided that it is not interested in acting as the promoter for this event, which is different from when the Southern Conference Basketball Tournament was here. First of all, Mr. Schumacher, the City of Asheville was the sponsor and promoter of the Southern Conference Tournament, not the Civic Center. And by your statement that the Civic Center had decided that it was not interested in acting as promoter, you clearly implied to this Coca Cola official that the City was not interested. In the second paragraph, you raised the fact that Coca Cola has an exclusive contract at the Civic Center. That, again, was completely inappropriate. And I'm going to read this sentence folks, but it's clear that Mr. Schumacher is trying to intimidate Coca Cola into thinking that somehow their exclusivity contract for the Civic Center could be jeopardized if they express interest in supporting the Big South Tournament. Let me just read this sentence. 'Due to this decision, the money for the sponsorship and the money for your continued produce exclusivity will be treated separately. We do need to get together soon to discuss the product exclusivity contract.' Now, Mr. Schumacher, I would ask you, who has given you the authority to negotiate Civic Center contracts without outside concessionaires? It is certainly not anyone on the Civic Center Commission's duty or authority to so negotiate. And I'd ask you when you consulted with the City Manager? When you consulted with City Council? When you consulted with the Mayor regarding your right to enter into negotiations on behalf of the City of Asheville? And finally, in your last paragraph, it starts out 'Although we will not be acting as the promoter for this event', let me read that again, 'Although we will not be acting as the promoter for this event, ...' well, Mr. Schumacher, how is it your decision, or how is it the Civic Center Commission's decision as to whether as to act as the promoter? It is this City Council's decision as to what the Civic Center will do. You clearly abrogated that. You clearly wanted to undermine the effort to bringing this tournament to this City. Now again, there are arguments pro and con as to whether this City should have submitted a

bid. There are legitimate points to be made, that you can make for not submitting the bid. But that does not justify your going behind this City Council's back and effectively putting us in a situation where we were not even given the opportunity to make that decision. You were not elected by the people of Asheville, Mr. Schumacher. We were. That final decision should have rested with us."

Mr. Schumacher responded by saying "first of all, it's obvious that you and I disagree about what this letter says. I'll address some of the points that you've raised. You kept saying implied implications and so forth. I think you're reading, without getting into a big argument, I think you're reading."

Councilman Cloninger then said "you sent it yesterday, right when you know when people on the Sports Committee are talking with the Coca Cola folks about getting a sponsorship. What possible good could this have done, and what possible relevance does Coca Cola's exclusivity contract have to the decision that should be made as to whether a bid is submitted?"

Mr. Schumacher continued that "as I tried to point out in the letter that those were two separate matters. And that in response to your issue about who decides whether we have, your question whether the Civic Center Commission has the authority to decide what events they're going to promote, in the past almost six years I've been on the Commission, the Civic Center, to my knowledge, has never gone to City Council and said 'we want the authority from you to promote this event.' We have promoted different types of events in the past. The Halloween Fun Fair, Travelogue Series, that sort of thing, along with the Southern Conference Basketball Tournament. We were the promoter for that. The money, the losses for that, were taken out of our budget."

Councilman Cloninger said "and you did that promotion after the decision was made by the City of Asheville to submit a bid."

Mr. Shumacher agreed. "But, I guess it's a matter of ... what you mean by promoter. I look at a promoter as being the one who is responsible for the event. Who stands to gain financially, which hopefully they will, or if there is a loss, the promoter takes the loss, after paying all the bills. So I'd look, with the Civic Center having taken the losses for those years, that we were acting as a promoter for it."

Councilman Cloninger said "you say the Civic Center's not going to act as promoter. Who gave you the authority to make that decision?"

Mr. Schumacher said that they always have in the past on the other events. "The Civic Center Commission has done that in the past on the other events and this Civic Center Commission decided, regarding this proposal, that we didn't want to promote it."

Councilman Worley confirmed that Mr. Schumacher was aware that this matter was up for discussion at Council's worksession on April 2 and also on Council's formal meeting today. He also was aware that the City Council decision was whether or not the City would take the risk. And if the City Council decides to take the risk and says to the Civic Center that the City of Asheville is doing this, then we are promoting this.

Mr. Schumacher understands that "the City Council wants to promote this, but my point is that the Civic Center Commission has said that the Commission doesn't feel like it's a good idea to promote it."

Councilman Cloninger noted that "you didn't say you didn't think it was a good idea, you said we're not going to promote it. And you had absolutely no authority to take that position. And this business about you trying to separate the sponsorship of Coke with the exclusivity provision. Why in the world would you feel the need to make that right at a delicate time when Coca Cola's trying to make their decision as to whether to submit a sponsorship? There was no indication that Coca Cola has any confusion that the $30,000 in sponsorship would be in addition to whatever they might have paid for their exclusivity contract. There wasn't a hint that Coke was confused about that. Why, in the world, unless you were attempting to undermine and disway Coke from sponsorship, why else would you have sent it yesterday? The day before we're meeting to vote on this thing, and right before we would have to submit a bid."

Mr. Schumacher said "as a member of the Civic Center Commission, it was my duty to make sure that there was no misunderstanding that whatever money they decided to come up with for the sponsorship, that that would not automatically buy them the rights for their produce exclusivity throughout the building for the rest of the year. They have not paid for it and it's past due. I would also like to point out, and I think something has gotten lost here in all this discussion is that we are not opposed to having the event there. We would welcome any other group that comes in, that wants to be financially responsible for any losses that might be incurred, to come and say yes, we would like to promote this event. It could be the Asheville Sports Committee who wants to incorporate it. It could be a private group out there, whatever. But, in the past, what's happened is that because we have been hit with the losses incurred, we don't have any problem, like I've said, with working with anyone who wants to promote and sponsor this event."

Councilman Cloninger said that "we wanted to promote it, we wanted to submit a bid - why didn't you work with us? Why did you work against us?"

Mr. Schumacher said that he's "not worked against you in order to keep Coke from doing this."

Councilman Cloninger said that "I defy anybody to read this letter and will certainly make it available to the public, and I defy anybody to read this letter and conclude that you were not attempting to undermine this City Council."

Mr. Schumacher said that "as I stated before, I do disagree with the proposal for the reasons I gave."

Mayor Martin said that the City will not submit a bid for the event this year, but asked that in the future, Mr. Schumacher and the Civic Center Commission consult with City Council before making decisions that might affect the future of the City or the Civic Center.

Mr. Edgerton asked that when a response is made by City Council to Coca Cola, that clarification be made to the Civic Center Commission as to what their responsibilities and duties are.

V. COMMENT:

ORDINANCES:

A. ORDINANCE NO. 2274 - BUDGET AMENDMENT REGARDING BELE CHERE 1996

Summary: This budget amendment, in the amount of $399,525, is to appropriate funding for the 1996 Bele Chere.

Each year, prior to the annual Bele Chere Festival, the Parks and Recreation Department develops an anticipated budget for expenditures and revenues. Committees have been formed to operate the festival and this appropriation is divided among each committee. It is anticipated that revenues will be generated at a level to support the expenditures of the festival.

City Manager Westbrook explained to Mr. Ralph Bishop the reason why this budget amendment is before City Council for approval.

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B. ORDINANCE NO. 2275 - BUDGET AMENDMENT REGARDING YMI EMERGENCY FUNDING

Summary: The YMI has requested funding from the City and County to cover operating cost for a six month period, while the organization seeks additional ongoing funding to continue operations and programs. City Staff and members of City Council have met with representatives of YMI, and subject to certain conditions, staff recommends that funding not to exceed the amount of $16,000 be provided to cover operating costs (excluding salaries, fringe benefits and travel) for the period March - June, 1996.

Conditions of the funding are as follows: (1) YMI provide the City with current monthly financial statements; (2) The City will pay on a reimbursement basis. YMI will present invoices for operating costs to the City before City funds are disbursed; and (3) YMI will provide the City with documentation and assurances, that no City funds are used to pay prior liabilities and that all such liabilities are being satisfied on a current basis.

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Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they would not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Skalski.

On a roll call vote of 5-0, the Ordinance Consent Agenda passed on its first and final reading.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 26, 1996, AND THE WORKSESSION HELD ON APRIL 2, 1996

B. RESOLUTION NO. 96-55 - RESOLUTION APPROVING THE N. C. DEPT. OF TRANSPORTATION PROJECT U-2901 CONSISTING OF RELOCATION OF N.C. 191, BREVARD ROAD, TO THE I-240 INTERCHANGE AND TRANSFERRING BRIDGE NUMBER 216 OVER HOMINY CREEK TO THE CITY OF ASHEVILLE

Summary: The N.C. Dept. of Transportation ("NC DOT") has developed plans to relocate N.C. 191, Brevard Road, between I-40 and I-240. Upon completion of the relocation of this section of N.C. 191, the

current N.C. 191 and the Hominy Creek Bridge will be left and ownership given to the City.

NC DOT, upon completion of the N.C. 191 relocation will, at no cost to the City of Asheville, transfer ownership of the Hominy Creek Bridge #216 to the City of Asheville. Upon acceptance of ownership of the bridge, the City will become responsible for all liability and maintenance of the bridge and shall hold NC DOT harmless from any and all claims for damages and liabilities associated with the bridge. NC DOT will require the bridge be limited to pedestrian and/or bicycle usage only. NC DOT reserves the right to inspect the bridge for structural integrity and proper maintenance and should the bridge not be properly maintained in accordance with OSHA standards or is being used for other than pedestrian or bicycle traffic, NC DOT will have the right to remove the bridge at the expense of the City.

NC DOT will continue to own the right-of-way and property upon which the bridge is located, but will provide the City with an access easement for maintenance and emergency purposes. The City will agree to maintain the access easement and hold NC DOT harmless from any claims for damage and/or injury which may result from the public use of said access. If said access is to be utilized as part of a bicycle facility or pedestrian park in conjunction with the bicycle and pedestrian bridge, the City will be required to obtain an encroachment agreement from NC DOT prior to such usage.

The City will be responsible for placement of proper signage for the bicycle and pedestrian use of the bridge and such signing plan must be approved by NC DOT prior to placement.

The agreement requires the City to be responsible for removal for removal and proper disposal of any lead paint residues on the bridge, but there are at present no paints or any type on the bridge. The City must also comply with any Federal or State environmental and safety regulations, specifications, procedures, and policies.

Prior to relinquishing ownership of the bridge, NC DOT will repair spalls in the concrete and add pipe rail on top of the existing bridge railings to meet AASHTO requirements for bicycle railings.

Since the Hominy Creek bridge is very close to the French Broad River, the Farmers Market, the Blue Ridge Parkway, Pisgah National Forest, Biltmore Square Mall and Biltmore Estates, the opinions of Parks and Recreation, Planning and Public Works is that the City should execute the municipal agreement between NC DOT and the City for transferring ownership of the Hominy Creek Bridge #216 from NC DOT to the City of Asheville for future use as a pedestrian and bicycle facility.

RESOLUTION BOOK NO. 23 - PAGE 152

C. RESOLUTION NO. 96-56 - RESOLUTION ESTABLISHING FAIR REUSE VALUE FOR DISPOSAL PARCEL 5 OF THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

Summary: Disposal Parcel 5 is located at the northwest corner of Montford Avenue and Courtland Avenue. It is generally rectangular in shape containing 8,712 square feet. Two buildings, a former service station and a small cottage are located on the property with each comprising about 700 square feet. It is zoned R-4 High Density Residential and its highest and best use per the appraisal is commercial to the extent permitted by the zoning. The R-4 district is primarily

for residential land use. Certain professional, service, executive, governmental and administrative offices are permitted. Businesses which commercially create, display, store, exchange or sell goods, wares or merchandise on the premises are excluded.

Disposal Parcel 5 was appraised by David Moore, MAI, and the appraisal was reviewed by Francis Naeger, MAI, who concurred and recommended the appraised value of $39,000 as fair reuse value.

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D. RESOLUTION NO. 96-57 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MIRACLE RECREATION EQUIPMENT COMPANY, AND THEIR APPROVED DISTRIBUTOR LARRY HASLEY & ASSOCIATES INC., TO PURCHASE AND INSTALL PLAYGROUND EQUIPMENT FOR WEAVER PARK AND MURPHY-OAKLEY PARK

Summary: In an effort to make the City's playgrounds accessible under the ADA Act, the Parks & Recreation Department undertook an extensive review and selection process to obtain the best qualified supplier of handicapped-accessible playground equipment and accessories.

In June 1995, bids were solicited from ten manufacturers of playground equipment information. Also manufacturers were asked to give addresses of any nearby locations where their equipment had been installed. During the review and selection process, visits and inspections were made of the playground sites. Findings were documented on the condition of the existing equipment based on age, use and exposure to weather.

Staff also advertised and conducted community meetings to obtain additional input as to the types and styles of playground equipment most requested by the community.

The Parks & Recreation Department has an existing program of replacing worn and outdated playground equipment, and has used several processes to determine which parks are most in need of retrofit with new playground equipment. Based on these processes, the Department has selected Weaver Park and Murphy-Oakley Park for retrofit through this program.

The Parks & Recreation Department has gone through the required Request for Proposal process and has determined that lowest qualified bidder to be Miracle Recreation Equipment Company. Based on identical design specifications for a single-unit play structure to be installed in our
parks, the three lowest qualified bidders are as follows (the change orders listed below are to replace all open handrails on the equipment to handrails with spokes, for safety reasons):

<u>Weaver Park</u>

	Miracle	BCI Burke	Game Time
Single Play Unit	17,732	23,674	26,448
Accessory Play pieces	10,680	8,431	8,680
Change Order: Addition of safety railings	3,100	3,532	3,864
Total Contract	31,512	35,637	38,992

Murphy-Oakley Park

	Miracle	BCI Burke	Game Time
Single Play Unit	17,732	23,674	26,448
Accessory Play pieces	8,344	6,820	6,287
Change Order: Addition of safety railings	3,100	3,532	3,864
Total Contract	29,175	34,026	36,599

The Parks and Recreation Department recommends approval of these two contracts, and the corresponding change orders, to the same contractor, Miracle Recreation Equipment Company, through their approved distributor, Larry Hasley & Associates, Inc.

RESOLUTION BOOK NO. 23 - PAGE 154

E. RESOLUTION NO. 96-58 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BY AND AMONG THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE AND THE YMI CULTURAL CENTER

Summary: This agreement is to authorize the City Manager to execute an agreement by and among the City of Asheville, the County of Buncombe and the YMI Cultural Center for funding not to exceed the amount of $16,000 (cap of $4,000 per month) to the YMI to cover operating costs (excluding salaries, fringe benefits and travel) for the period March - June, 1996.

Conditions of the funding are as follows: (1) YMI provide the City with current monthly financial statements; (2) The City will pay on a reimbursement basis. YMI will present invoices for operating costs to the City before City funds are disbursed; and (3) YMI will provide the City with documentation and assurances, that no City funds are used to pay prior liabilities and that all such liabilities are being satisfied on a current basis.

RESOLUTION BOOK NO. 23 - PAGE 155

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Worley moved to approve the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Sellers and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission on April 3, 1996:

41 Atkins Avenue Apartments

Mr. Gerald Green, Senior Planner, said that at the Commission meeting held on April 3, 1996, the Commission voted 5-1 to recommend approval of the group development. This approval was recommended with two contingencies: (1) receipt of a letter for approval for adequate water pressure for fire protection, and (2) receipt of a driveway permit. A density variance was requested but not recommended. A petition with 26 signatures was presented from concerned neighbors asking to deny the density variance. Several people from Atkins Avenue spoke in opposition to the group development. Frank Muir, spokesman for Volvo Construction (property owner adjacent to the site) also spoke in opposition.

The Commission has recommended approval of the group development and denial of the variance. The Planning & Development staff recommend approval of the group development but a denial of the density variance.

The petitioner stated that they do not want to go forward with the variance request.

Upon inquiry from Councilman Skalski about the reasons for opposition, Mr. Green said that since the zoning of that site permits the development, there were no strong arguments against the development as a whole. However, the opposing comments regarding the density variance came from neighboring property owners on the traffic that would be generated by the development on fairly small residential streets in the neighborhood.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

Generic Hotel to be located at I-240 and Buckstone Drive

Mr. Gerald Green, Senior Planner, said that a four story hotel will be constructed on two lots totaling 1.64 acres and zoned Commercial Highway. Adjacent property are also zoned CH.. Access to the property is provided from Buckstone Place (off of Tunnel Road) and the site plan meets all of the development standards in the CH zoning district.

At the Planning & Zoning Commission on April 3, 1996, the Commission voted unanimously to recommend approval of the group development with two conditions: (1) the two lots must be combined; and (2) receipt of letters of approval for sewer availability and adequate water pressure for fire protection. The Planning Department staff also recommends approval with the same conditions.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

B. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop said that it's an obstruction of justice to not tell him who put sugar in his gas tank a long time ago.

C. COMMENTS BY HARLEY DUNN

Mr. Harley Dunn, one of the partners in River Bend Business Park which are purchasers of the old Sayles Biltmore Bleachery on Swannanoa River Road, described the improvements which have been taking place over

the last year to the building and site. As work has been progressing, they have recently found that since the building is over 25,000 square feet, they fall into the group development review process. Because some of the requirements in the group development process are geared more toward new development, he feels that they should not have to spend up to $30,000 to comply with some of the requirements in the process since they are only renovating an existing building. He feels the development is "the round peg trying to fit into the square hole". He asked Council to consider allowing his project to be reviewed at the Planning & Development staff level, which typically happens to smaller buildings. He also asked that this process be reviewed so that other developers can have this type of relief. He urged Council and the citizens to work together to make this process more user friendly. If we are going to try to attract the kinds of industries and jobs that we need in our community, we need to work on improving the process.

Councilman Worley said that this is an existing building that has been here for a considerable period of time and it's being subjected to the exact same requirements as a new building - some of which requirements may not be necessary. He confirmed with Mr. Dunn that they don't intend to do any new construction other than simply renovating and improving the existing building. On the surface, he didn't see the necessity for some of the requirements when renovations are only being made. Clearly there are building safety requirements that cannot be waived. He felt Mr. Dunn was asking that the relevance of the work being done and the requirements match.

Upon inquiry of Councilman Skalski about existing site plan, Mr. Dunn said that they created some site plans for renovation purposes.

Councilman Cloninger was interested in hearing any recommendations on how we might facilitate their being able to put this building into effect. Asheville is fortunate that these folks were able to make the investment in such a large piece of property that doesn't have a lot of uses. Where we have an opportunity to put it into use and make the property more valuable, we should try to encourage that, at the same time we, at least, meet the spirit of our ordinance requires.

Mayor Martin instructed the City Manager to review Mr. Dunn's request and report back to the City Council. Mr. Westbrook stated that he would have staff detail the list on why those requirement are on the checklist, if there is a good reason for them and then Council can make a judgment about whether they want to require those kinds of things.

D. COMMENTS BY H.K. EDGERTON

Mr. H.K. Edgerton requested Council to encourage, at every opportunity, community participation in the bicentennial plannings.

E. LAWSUIT

On March 26, 1996, the City was served with the following lawsuit: Viola Hooker v. City of Asheville, County of Buncombe and Asheville Regional Airport Authority (negligence).

City Attorney Slawter said that he had reviewed the lease between the City and the Airport Authority and it contains an indemnification provision for liability arising from negligent use of the Airport property. Therefore, he has contacted the attorney for the Airport regarding representation and indemnification.

F. CLAIMS

The following claims were received by the City of Asheville during the week of March 22-28, 1996: Amanda Wallen (Water), James Woody (Water), Chris Bumpus (Water) and Frances R. Lindsey (Water).

The following claims were received from March 29 - April 3, 1996: Allen Rogers (Water), Metromont Materials (Water), Nina Bartolomie-Kirk (Water), Jan Alexander (Police), Amber Phillips (Water), Asheville Moose Lodge (Water) and Sondra Honeycutt (Water).

These claims will be referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:53 p.m.

Magdalen Bowleson
CITY CLERK

MAYOR

Tuesday - April 16, 1996 - 12:30 p.m.
Asheville Regional Airport

Luncheon and Tour by the Asheville Regional Airport Authority

City Council Representatives Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; and City Manager James L. Westbrook Jr.

Members of the Asheville Regional Airport Authority and others were present.

City Council met with the Airport Authority and received an update from the Airport Authority and the Airport Manager regarding on-going improvements at the Airport.

Tuesday, April 16, 1996 - 3:30 p.m.
Room 623 - City Hall Building

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

TRAFFIC SIGNAL SYSTEM UPDATE

Mr. James Cheeks, Traffic Engineer, briefed Council on the traffic signal system in the City of Asheville. He reviewed the City of Asheville's traffic signal system goals, which are to provide for the efficient movement of persons and goods; provide an increased level of safety; reduce transportation costs; provide adaptability to changing conditions; and reduce adverse environmental impacts. He then reviewed each goal objective.

Upon inquiry of Councilman Hay, Mr. Cheeks responded to questions regarding the traffic signal lights on Charlotte Street.

Vice-Mayor Field felt it was extremely important that Council start making some decisions about the increasing traffic and the increasing intensity of pedestrians in the downtown area.

UNSAFE BUILDING STATUTE

City Attorney Bill Slawter said that a Notice of Appeal has been received from Larry Linney on March 15, 1996, appealing to the City Council a Vacate and Close Order against 44 S. Market Street entered by the Fire Marshal. The appeal is authorized by G.S. 160A-430. He then advised Council that a quasi-judicial hearing should be held by the City Council. He said that City Council and Mr. Linney will be provided with all applicable documents prior to the scheduled hearing.

Mr. Slawter noted that Mr. Linney will be advised that if he would like to have the hearing postponed (in which a message was left in the City Attorney's Office earlier in the day to that effect), the City Council should receive a written statement to that effect.

It was the consensus of Council to proceed with hearing the appeal filed by Mr. Linney at the conclusion of the formal meeting on April 23, 1996.

HORSE DRAWN CARRIAGE ORDINANCE AMENDMENT

Ms. Deborah Crowder, that City Council has established various locations to which horse drawn carriages are confined, and it would be beneficial to remove that specified confinement, allowing carriage routes to be approved or disapproved, in advance of their use, by the carriage inspector and the Chief of Police.

It was the consensus of Council to proceed with the appropriate action at the next formal meeting.

LEWIS RATHBUN WELLNESS CENTER

Assistant City Manager Doug Spell said that the Lewis Rathbun Wellness Center has a collector series of ornaments. The City has received a request to grant permission for them to use City Hall as a subject matter for the fourth in the collector series of ornaments. As part of the request, Ms. Bonnie Brannon, Administrative and Development Director for the Lewis Rathbun Wellness Center, asks for an endorsement by the City Council. She also indicated that the 1995 ornament was endorsed by the Chamber of Commerce and she also plans to seek their continued support.

Staff has reviewed this request with the City Attorney. It is the recommendation of the City Attorney that City Council consider adopting a resolution authorizing the Center to use the City Hall building as a subject matter for a collector ornament, and to also consider in the resolution an endorsement of the collector series program by the Lewis Rathbun Wellness Center. To staff's knowledge, a similar request has not been received by the City for such permission or an endorsement. Therefore, by proceeding in this manner the City Council may address any future requests on an individual case by case basis.

It was the consensus of Council to proceed with the appropriate action at the next formal meeting.

CONSENT:

Donated Horse for Mounted House Patrol

Summary: Accept the donation of a quarter horse by the name of Sonny Bybar for use by the Asheville Police Department Mounted Horse Patrol Program.

The Mounted Horse Patrol has utilized the services of Sonny Bybar since June, 1995, on a trial basis. This period has proven very successful.

Offer to Purchase Disposal Parcel 4A of the East Riverside Redevelopment Project

Summary: Disposal Parcel 4A is a CS Commercial Service lot near the corner of Hilliard and South French Broad Avenues, comprising 16,852 square feet. The bid from Hilliard Avenue Partnership for Disposal Parcel 4A includes the proposal to incorporate the lot into the property currently owned by Hilliard Avenue Partnership where the offices of Waddell Sluder Adams & Co. and Maryland Casualty Co. are located. The development proposal consists of landscaping and maintaining the lot

consistent with the currently owned property. Hilliard Avenue Partnership consists of Robert B. Gelder Jr. and Julia Adams Slipher.

The bid of Hilliard Avenue Partnership in the amount of $67,400 for the purchase of Disposal Parcel 4A in the East Riverside Redevelopment Project is not less than the established minimum price of $67,400.

This resolution will initiate the sale of the property through the upset bid process as provided in G.S. 160A-269.

It was the consensus of Council to proceed with appropriate actions on the Consent Agenda at the next formal meeting.

OTHER BUSINESS:

Communication Towers

Upon request of Councilman Cloninger, it was the consensus of Council to ask the City Manager to investigate as quickly as possible the City developing communication tower regulations.

Closed Session

At 4:40 p.m., Vice-Mayor Field moved to go into closed session as authorized by G.S. 143-318.11 (a) (3) in order to consult with the City Attorney in order to preserve the attorney-client privilege. This motion was seconded by Councilman Skalski and carried unanimously.

At 4:55 p.m., Vice-Mayor Field moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

Tuesday, April 16, 1996 - 5:00 p.m.
Room 623 - City Hall Building

Joint Asheville City Council/Buncombe County Commissioners Meeting

City Council -
Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

County Commissioners -
Present: Chairman Dr. Gene Rainey; Commissioners Patsy R. Keever, C. Thomas Sobol, William H. Stanley, David W. Young; County Attorney Joe A. Connolly; County Manager William E. McElrath Jr.; and County Clerk Kathy Hughes

Absent: None

Mayor Martin and Chairman Rainey opened the meeting at 5:00.

AREAS OF CURRENT COOPERATION

County Manager McElrath briefed the Council and Commissioner on the many different areas in which the City and County are currently cooperating. Those areas are described in Exhibit "A" attached hereto and made a part hereof.

Both Managers noted that there is a lot of cooperation going on between both governments thanked staff for their hard work.

Cooperative Efforts

Minority Business

Mr. Jerome Jones briefed those present on an agreement establishing a Buncombe County Minority Affairs Office that will provide minority business affairs services to the City of Asheville. He summarized background information as follows:

- In July 1995, the Board of Commissioners established an African-American Business Task Force ("AABTF") to identify obstacles to minority businesses doing business with the County and to make recommendations to eliminate those obstacles.

- In December 1995, City and County senior managers began discussions on areas where the City and County might cooperate with each other to the benefit of both entities.

- On January 23, 1996, the AABTF reported their findings and recommendations to the Board of Commissioners.

- One of those recommendations was to establish a minority affairs function in the County and to enter discussions with the City for areas of cooperation or to establish a single function servicing both entities.

- Minority affairs, therefore, along with risk management, became two functions where cooperation between the City and the County seemed to hold promise.

- Subsequently, discussions between the City and the County resulted in an agreement calling for the City to provide funding for the two positions currently performing the City's minority business affairs function, as well as funding to support those positions. The County would, in turn, provide to the City the services now being provided by the City's office. The County will provide additional staff.

- The agreement could take effect as early as May 1, 1996, however, employees and funding would remain wit the City and the County respectively until July 1, 1996. At that time, all minority affairs personnel would become employees of the County. Hire dates would transfer so benefits based on longevity would not be adversely effected.

Mr. Jones then outlined the current status:

- The County and City staffs have developed an agreement for cooperation between the City and the County regarding minority affairs.

- The agreement calls for the County to establish a Minority Affairs Office and provide minority business affairs services to the City. Those services remain essentially the same as are now provided by the City's Minority Business Affairs office.

- The City would reimburse the County for those services at approximately the same level of funding as is reflected in the City's Fiscal Year 1997 budget for minority business affairs.

He then asked for City Council and County Commissioner approval of the agreement for cooperation regarding minority affairs.

Upon inquiry of Vice-Mayor Field, Mr. Jones said that it is their intent to use the City's current Minority Business Plan until another Plan is developed.

Vice-Mayor Field feels that the Office needs to be committed to the goals in the Minority Business Plan.

Risk Management

Assistant City Manager Doug Spell briefed those present on the City assuming responsibility for administering certain risk management operations for the County.

Mr. Spell then said that during the past several months, the City and County have been discussing various areas for cooperation. One area which has been discussed and appears to be an area of potential cooperation pertains to the City administering certain risk management operations on behalf of the County.

An agreement has been prepared between the City and County addressing the provisions of the City assuming responsibility for administering certain risk management operations for the County. As a part of this agreement, the City does not assume any of the County's risk management obligations or liabilities. The current risk manager staff person for the County would become a City employee and retain annual and sick leave balances. However, the County is not proposing to transfer the responsibility for safety functions and training to the City but to continue that as a County function. The proposed duration of the agreement is for an initial two year period with automatic renewals on a year-to-year basis. However, he noted that the agreement may be terminated by either the City Council or the County Commissioners with a 90-day written notification to the other party.

It is important to note that the terms of this agreement do not form any type of joint agency and does not involve the pooling of City and County funds. Both programs would be maintained independently and the costs of the programs would be paid separately. The City, in administering the County risk management operations as proposed, would market both the City and County programs in order to obtain the best premium rates. The City would also review the current County coverages and make recommendations for any enhancements or changes. The City would provide monthly reports to the County of liability accidents and outline efforts to assist in controlling the losses to minimize frequency and severity of losses. Additionally, the City would perform a cursory review on an on-going basis of the County's health, dental, life and other benefit programs and provide a written recommendation to the County Personnel Director based upon this review.

The operational costs associated with the cooperation on risk management consists of $62,988. This is the amount which the County is

paying for the budgeted staff support for their current risk management services and will be the amount which the County would pay the City for Fiscal Year 1997. Each subsequent year, the funding for the risk management services would be discussed and negotiated as a part of the annual budget process. It is also noted in the agreement that approval of the County is required for an increase in expenditures greater than 5% of the total budget amount. The City would bill the County on a semi-annual basis for the proceeding six-month period. As outlined in the agreement, it is anticipated that the cooperative efforts for administering the risk management operation will begin May 1, 1996, with the actual personnel and budgetary costs occurring on July 1, 1996.

Staff from both the County and City have been a part of the discussion and review of this item and the agreement for cooperation. Therefore, staff recommends that the Mayor and Chairman of the Board of Commissioners be authorized to execute the agreement for cooperation which includes the risk management operations.

Upon inquiry of Commissioner Young about any perceived cost savings, Mr. Spell noted that the first year will be a learning experience and there are no cost savings projected yet. However, City Manager Westbrook quoted figures for 1992 that showed a substantial savings for the City in premium costs alone. He credited this to experience and hard work of the City's Risk Manager John Miall.

Commissioner Stanley moved to authorize the signing of an agreement with the City subject to further review by the County Manager and County Attorney. This motion was seconded by Commissioner Sobol and carried unanimously.

Councilman Worley moved to authorize the Mayor to sign an agreement with Buncombe County providing for cooperation between the County and the City for risk management and minority affairs functions, the terms of said agreement to be subject to further legal review and approval by the City Manager and the City Attorney, who are hereby authorized to make such modifications in the agreement as they deed appropriate in preserving the City's interest. This motion was seconded by Vice-Mayor Field and carried unanimously.

Animal Control

Ms. Wanda Green, Assistant County Manager, briefed those present on the possibility of privatizing animal control. She summarized background information by saying that in January, staff from the Sheriff's Department and the Police Department met to discuss the possibility of combining animal control functions. After reviewing the needs and service requirements, the discussion turned to moving animal control out of law enforcement. Discussions were held with George Bond, the County Health Director, since he has several statutory responsibilities for animal issues. While the Health Department is one alternative for managing animal control, privatization is another option that everyone wanted to pursue.

She then said that currently both the County and the City animal control is managed by law enforcement. The County has five animal control positions and the City has two animal control positions. During 1995, the County responded to 4,950 calls and picked up 2,540 animals. During the same period, the City responded to 6,000 calls and picked up 1,755 animals. The City incurred around 700 hours of overtime in managing this workload.

At this time staff of both the City and County is working with the Friends for Animals to evaluate the feasibility of privatizing animal control. Staff will bring proposals back to their respective boards in May.

In preparation for privatization, the County Attorney, with the assistance of the City Attorney and a task force representing the Sheriff and Police Department, revised the County's animal control ordinance. Requirements specific to the City were incorporated. The City Council can, by resolution, opt to follow this ordinance. The Commissioners held a public hearing on the revised ordinance on April 2, 1996. The ordinance will be placed on the May 7, 1996, Commissioner's agenda for a vote.

Upon inquiry of Commissioner Keever, Ms. Green said that the Friends for Animals Board is very interested in doing this.

Mayor Martin said that the City would be looking forward to the proposal being brought back to them in May.

AREAS UNDER REVIEW AND ANALYSIS FOR FUTURE COOPERATION

City Manager Westbrook outlined areas that the City and the County are currently exploring for future cooperation. Issues on the list are in various stages of review and analysis. Therefore, each paragraph tries to summarize the current status of each issue.

1. Joint Greenway Planning. Staffs have already begun to work together for joint greenway planning in and around the City's urban area. We would like to consider combining the two commissions at a later date, after staffs have worked together.

2. Joint Parks and Recreation Functions. The City and the County are looking at three different areas. Those are as follows:

   A. The City is looking at operating the Aston Park facility for the County. The agreement is close to completion. There are still some issues to be resolved, but they do not seem to be insurmountable.

   B. The City agreed to look at the possibility of taking over 8 County softball teams. Since the City operates more than 130 softball teams, we anticipate being able to operate the 8 County softball teams, and an agreement is near at hand.

   C. The City agreed to work jointly with the County to develop a Lake Craig Park property. A committee has been established; they are looking at various funding options and are not yet ready to report back to the City and the County.

3. Funding Requests From Not-For-Profit Organizations. In order to prevent duplication of funding for community not-for-profit organizations, the City and the County will be cooperating by sharing information during the budgetary process. This process will begin during the budget preparation for Fiscal Year 1997, which is currently under way.

4. Recycling. Since the City and the County will be recycling solid waste, we are going to review both programs. The purpose of the review is to determine if the education/public relations function could be combined.

5. Joint Use of the City Print Shop. Significant progress has been made in this area. There has been agreement, in principle, that we can move forward in this function. The concept entails the County using the City's printing operations and paying for this use. At this point with the current amount of work that has been done, it still looks very promising.

6. Joint Purchasing of Commodities. The two purchasing agents have been working together; they have agreed there are many more items that we can try to cooperatively purchase. Most of this comes under the heading of sharing information during the budget, and after the budget, on types of equipment and services to be procured. We will begin doing this immediately, and are asking both purchasing agents report to the their respective managers quarterly concerning their cooperative efforts. There has been much cooperation in the past, and this current effort will broaden to include even more commodities and services.

As the analysis of all of these issues is completed and ready for implementation, staffs will bring them back to the respective governing bodies for approval and coordination of the implementation dates. Both the County Manager and the City Manager see this as an on-going effort, and they intend to add to this list as we go forward.

It was noted that soccer fields are desperately needed in the City and County, not only for the youth, but for the economic impact that tournaments can bring to our area.

Upon inquiry of Commissioner Young, Mr. Irby Brinson, the City's Director of Parks and Recreation, explained what is being done regarding the Lake Craig property in terms of a soccer field. Mr. Brinson hoped that in late summer, they will be in a position of bringing an agreement to the respective boards to consider. Then, by September 1, 1996, there could be some sort of preliminary plan.

Councilman Skalski said that the City and the County need to move forward on mapping and planning for greenways.

DRUG COMMISSION

Mr. Vaughn Ownbey, Executive Director of the Buncombe County Drug Commission, outlined the Mayor's Challenge objectives as being (1) to impact the substance abuse problem in Asheville and Buncombe County; (2) to produce short-term, measurable results; and (3) to provide the Drug Commission with a leadership opportunity in the effort. He then briefly summarized the impact by national and local statistics, the current program of the Buncombe United Drug-Free Workplace Alliance, and the Buncombe United proposal. He stated that the long-term program objectives which would be to (1) build on success with drug-free workplace program to expand focus in other areas; (2) utilize yearly evaluation information to develop new program offerings; and (3) continue to educate community on long-term and comprehensive nature of the problem.

Mayor Martin invited the Council and Commissioners to a meeting on April 17, 1996, at 2:00 p.m. in Room 623 of the City Hall Building regarding this issue.

Chairman Rainey asked that Mayor Martin work with Vice-Chairman Sobol on this issue.

OTHER MATTERS

Other Consolidation Issues

A question was raised about whether the City and the County would be discussing the consolidation of the school systems or consolidation issues with other municipalities in the area. The man said that those were two issues discussed at the last joint City/County meeting and were to be on this agenda.

Chairman Rainey said that the City and the County are looking at things they can consolidate in the immediate future. If the bodies can consolidate successfully in smaller things, then they can move onto larger matters like the consolidation of the school systems.

County Manager McElrath said that this meeting is dealing with issues dealing with the City and County issues only.

West Asheville Library

Chairman Rainey informed Council that the Commissioner would be considering the resolution the Council sent encouraging the County to keep the West Asheville library on Haywood Road at their next formal meeting.

Bicentennial Celebration

Mayor Martin said that the City is having their bicentennial celebration in 1997 and invited the County to participate in the planning and celebration.

Commissioner Sobol moved to continue the County Commissioner's meeting. This motion was seconded by Commissioner Stanley and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:16 p.m.

Magdalen Bradham
CITY CLERK

MAYOR

Exhibit "A"

CITY/COUNTY COOPERATION

. CJIS

- City pays 45% and County pays 55%.
- Networks and integrates County, City, State and Federal criminal information systems.
- Integrates dispatch operation of the City police and fire departments with the court system, new detention center, the Sheriff and/or the State and Federal criminal information systems.
- Results....Law enforcement officers on the streets quicker, quicker arrests and incarceration of criminals and provide a safer community for our citizens.

. BUREAU OF IDENTIFICATION

-The Sheriff and the Chief of Police serve as the supervisors of this program.

. DSS and CITY Cooperation

- The City provides the use of the Reid Center (at no cost) on the first five days of each month as a Food Stamp distribution site for 1,500 families.
- The City provides burial sites for the unclaimed body cremations for a nominal fee. The DSS director is responsible for all unclaimed bodies.
- City Fire Inspector provides DSS with Fire/Smoke Alarms to assure those City low income residents have access to this life saving device.
- APD works very close with the DSS staff regarding child and adult protective services.

. LIBRARY

- North, West, Oakley and East Asheville branch libraries are owned by the City and operated by the County. Ed Sheary, Library Director, and Irby Brinson, City Parks and Rec. Director, are presently trying to document past verbal agreements which was not done in 1981.
- Parking at the Civic Center Parking Garage is provided free to library users for up to one and one-half hours.
- A midyears jump of 65% in cost for Library personnel parking spaces is being reviewed by the City and Mr. Sheary.

. PARKS AND RECREATION

- The County allowed the Biltmore Little League to play on the County's property at the old Biltmore School property until Biltmore Properties tore down the old Biltmore High School and prepared the land for future development.

- The County purchased property ($350,000) in the Oakley area from the County School Board and gave the land to the City for a future ballpark and community center. The Ray Kisiah ballpark now stands on that property.

- The City and County have formed partnerships with the two Parks and Recreation departments in the following areas:

  > Senior Games
  > Greenway Plan
  > City Open Tennis Tournament
  > Lake Craig/Wells Property
  > Kiwanis All Kids Day

. LANDS RECORD

- Because of the MAGIC (Mountain Area Geographic Information Consortium) agreement, the City will eventually tap onto the County's GIS network. This will allow the City, and others, to use the microwave technology in the future.

- The digital orthophoto program and data base is being converted to a platform that is compatible to the City's. The large digital program will cost $510,000 and the city's share will be $100,000.

. COLLECTION OF TAXES

-The County presently collects all City taxes for the City. The City pays 1 and 1/2 % quarterly of City taxes collected by the County for this service.

-Beginning July 1, 1997, tax collection will fall under the administration of the County Manager because the Tax Collector's position will not be an elected position after that date.

. HOUSEHOLD WASTE

-Recently the City Council and the Board of Commissioners passed an INTERLOCAL agreement by which the City would bring its waste stream to the County. The County agreed to open and operate the County's transfer station to accommodate the City.

-The INTERLOCAL agreement involved RECYCLING which continues to be discussed by both parties.

.HOUSING

-The County is part of the Asheville Regional Housing Consortium. The County's participation assists the City by providing a larger formula allocation of federal HOME funds.

.TRANSPORTATION

-The Asheville Transit Authority (ATA) contracts with the County's BOOST System to provide paratransit services required of the fixed route systems under the Americans With Disabilities Act (ADA). Presently, ATA does not have lift-equipped accessible vehicles.

.PURCHASING

-The County utilizes the City's printing department on many occasions.

-Joint City/County purchases are being considered at this time.

1. Monthly meetings have been established for better communications.
2. Processes will be modified to simplify the cooperative efforts.
3. General conditions will be consolidated which will be used with many types of bid requests.
4. There will be a coordination of expiration dates of service and supply agreements.
5. Incompatible computer software will be a major issue in the near future.
6. Discussion to merge bidders list have been initiated.
7. Joint purchases of computers and vehicles is being discussed.

. AIR POLLUTION.

-The City and County joined with Haywood County to enter into an INTERLOCAL agreement to form the Western North Carolina Regional Air Pollution Control Agency which establishes the WNCRAPC Board.

. SAFETY

-MEG- The Sheriff's department and the City police are part of a drug enforcement unit which is a collaboration to fight drugs in the City and County.

-The Sheriff's department and the City police combined their training efforts at various times during the year.

-911- There is a cooperation effort with the City and County emergency units to provide this vital service to all communities.

-The City and County emergency units train together when feasible.

-The City police and/or fire departments work hand-in-hand with the County's Sheriff department and EMS during an emergency or disaster.

-The County provides Hazardous Waste ordinance inspections and enforcement for the City.

-The County provides ambulance service to the City.

-The City is included on the Local Emergency Planning Committee for hazardous waste materials.

.CHILD CARE

-The City provides the facility for the Livingston Child Care Center and the County operates and maintains the center.

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CAuth

DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

ARCHIVES AND RECORDS SECTION

CERTIFICATE OF AUTHENTICITY

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Maria L. Dana

Microfilm Camera Operator

STATE OF NORTH CAROLINA
DEPARTMENT OF CULTURAL RESOURCES

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CITY OF ASHEVILLE

MINUTES

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Pages: 1-386

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Tuesday - April 23, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Skalski gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 96-59 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE HAROLD BALL, LABORER SENIOR IN THE PUBLIC WORKS DEPARTMENT

City Manager Westbrook read the resolution stating that Harold Ball has been an employee for over 27 years and has requested retirement from his position as Laborer Senior in the Sanitation Division in the Public Works Department. He expressed City Council's appreciation to Harold for his service to the City of Asheville and its citizens.

Resolution No. 96-59 was adopted by acclamation.

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B. PROCLAMATION RECOGNIZING APRIL 25, 1996, AS "PARKS AND RECREATION VOLUNTEER DAY"

Mayor Martin read the proclamation recognizing April 25, 1996, as "Parks and Recreation Volunteer Recognition Day" in the City of Asheville and presented the proclamation to Ms. Debbie Ivester, Superintendent of Administration for the Parks & Recreation Department. Ms. Ivester thanked the Council for this recognition and briefed them on some activities that will be taking place during the day.

C. PROCLAMATION RECOGNIZING MAY 2, 1996, AS "NATIONAL DAY OF PRAYER"

Mayor Martin read the proclamation recognizing May 2, 1996, as "National Day of Prayer" in the City of Asheville. He presented the proclamation to Ms. Carol Collins and Mr. Steve Cooper who briefed the Council on some activities that would be taking place during that day.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO ANNEX PROPERTY LOCATED AT 150 WESTSIDE DRIVE IN THE WESTSIDE INDUSTRIAL PARK (CARE FREE WINDOWS/KINCO DIVISION)

ORDINANCE NO. 2276 - AN ORDINANCE TO ANNEX PROPERTY LOCATED AT 150 WESTSIDE DRIVE IN THE WESTSIDE INDUSTRIAL PARK (CARE FREE WINDOWS/KINCO DIVISION)

Mayor Martin opened the public hearing at 5:17 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that the Planning Department has received a petition under G.S. 160A-58.1 to annex a non-contiguous property on 150 Westside Drive known as Care Free Windows.

On September 29, 1995, the City of Asheville received a signed petition from Care Free Windows requesting annexation of their property. The annexation is in accordance with the agreement between Care Free Windows and the City of Asheville for extension of sewer services. The property is not more than three miles from the primary corporate limits and is not closer to the primary limits of another city than it is to the City of Asheville. The effective date of the annexation will be April 23, 1996.

City Attorney Slawter responded to an inquiry from Mr. Ralph Bishop about the rights given to areas when they are annexed, in particular "the right to sell whiskey".

Mayor Martin closed the public hearing at 5:22 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2276. This motion was seconded by Vice Mayor Field.

On a roll call vote of 7-0, Ordinance No. 2276 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 350

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 96-60 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THE WEST BUNCOMBE FIRE DEPARTMENT FOR PROVISION OF FIRE PROTECTION SERVICES TO THE CARE-FREE WINDOWS PROPERTY ANNEXATION AREA

Mr. Carl Ownbey, Urban Planner, said that as Asheville annexes the Care-Free Windows property, state law requires provision of fire protection services. West Buncombe Volunteer Fire Department presently provides those services to the property. The City has developed a standard fire protection contract for this purpose. Execution of this contract would provide for replacement of lost property tax revenue in the amount of $1,386.63. This contract is a year-to-year agreement, revocable by either the City or West Buncombe on 30 days' notice.

Upon execution of this agreement, the Asheville Fire Department and the West Buncombe Volunteer Fire Department would simultaneously respond to fires, fire-related emergencies, and medical emergencies.

Fire Chief John Rukavina answered various questions from Councilman Hay regarding the level of service.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilman Hay moved for the adoption of Resolution No. 96-60. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 157

B. RESOLUTION NO. 96-61 - RESOLUTION ACCEPTING SHADY CIRCLE AS A CITY SYSTEM STREET

Mr. Mark Combs, Public Works Director, said that the developer of the Laurel Bridge housing development is requesting the City to accept maintenance responsibility for Shady Circle by adding it to the city street system.

When this matter was discussed at Council's worksession on April 2, 1996, staff recommended denial of this request due to Shady Circle only serving a single property developed for rental housing; private parking in the cul-de-sac for apartment residents; and the precedence being set for streets in a similar situations that don't meet the City policy. They felt that if the apartments, in the future, did turn into condominiums, then acceptance might be acceptable to the City.

Worksession discussion on April 2, 1996, surrounded Public Works staff requesting removal of a tree located in the curb line near the entrance of Shady Circle as one condition for acceptance of the street.

On April 3, four administrative staff visited the site. It is important to note that the tree is located in the curb line and not behind it. Consensus problems noted were:

- Potential water intrusion under pavement.
- Potential for tree roots to "buckle" pavement as tree grows.
- Site distance for motorists entering Whitson Street. The Traffic Engineer emphasized that this was not a severe hazard, however, due to extremely low traffic volume on both streets.
- Potential pedestrian or bicycle hazard due to sharp drop-off from edge of pavement.
- Potential liability to City as "roadway obstruction" due to physical location of tree and potential for vehicle damage by hitting tree or driving over the missing curb section.

The aid of an arborist was enlisted to examine the tree for its potential long-term survival. The examination revealed that the tree was healthy.

In a telephone conversation with Scott Dedman, Executive Director of Mountain Housing Opportunities Inc., on April 19th, Mr. Dedman agreed to correct the following deficiencies prior to acceptance as a City street:

- Replace section of cracked curb.
- Backfill around two poplar trees.
- Grout pipes in stormwater inlet.
- Seal expansion joints in curb and gutters.
- Remove tree and replace missing curb section, if necessary, and per City Council directive.

Mr. Combs distributed six photographs showing the subject tree and reiterated that the Public Works staff recommends the tree be removed as one of the conditions for street acceptance. Staff felt that if the

tree remained, it would cause potential maintenance problems, like buckling the pavement. He once again stated the problems associated with the tree location.

Councilman Worley moved to accept a 179 foot section of Shady Circle as a City system street subject to Mountain Housing Opportunities Inc. (1) replacing section of cracked curb; (2) backfilling around two poplar trees; (3) grouting pipes in stormwater inlet; (4) sealing expansion joints in curb and gutters; and (4) removal of tree and replacing missing curb section. This motion was seconded by Councilman Sellers.

Vice-Mayor Field and Councilman Hay understood the reasoning why the recommendation was to remove the tree, but basically were in favor of letting the tree remain, if at all possible.

Mr. Dedman understood Council's concern regarding whether the tree should be left or removed and said that "as far as future damage to the road, I would be happy to offer if that tree causes buckling of the pavement or where it starts washing out and damaging the pavement, I could go on record now - we'll pay to have the tree removed at that time and put the pavement back as it should be, put the road back as it should be and replace the curb at that time that it causes a problem."

City Attorney Slawter advised Council that if they desired to accept that portion of Shady Circle as a City system street today, the resolution could be adopted conditioned upon execution of an agreement with Mountain Housing Opportunities Inc. for them to (1) replace section of cracked curb; (2) backfill around two poplar trees; (3) grout pipes in stormwater inlet; (4) seal expansion joints in curb and gutters; and (5) should the tree start damaging the pavement, at Mountain Housing Opportunity Inc.'s expense, the tree be removed, the pavement and road be repaired and the curb be replaced, at the City's request.

Councilman Worley then amended his motion to accept a 179 foot section of Shady Circle as a City system street subject to the conditions outlined above by City Attorney Slawter. This amendment to the motion was accepted by Councilman Sellers, and said amended motion carried unanimously.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

RESOLUTION BOOK NO. 23 - PAGE 158

V. CONSENT:

At the request of Mr. Ralph Bishop, Item A. was removed from the Resolutions & Motions Consent Agenda to be discussed separately.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 9, 1996, AND THE WORKSESSION HELD ON APRIL 16, 1996

This item was removed from the Resolutions & Motions Consent Agenda to be discussed individually.

B. RESOLUTION NO. 96-62 - RESOLUTION ACCEPTING THE DONATION OF A HORSE BY THE NAME OF SONNY BYBAR AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT TO REFLECT THAT ACCEPTANCE

Summary: Accept the donation of a quarter horse by the name of Sonny Bybar for use by the Asheville Police Department Mounted Horse Patrol Program.

The Mounted Horse Patrol has utilized the services of Sonny Bybar since June, 1995, on a trial basis. This period has proven very successful.

RESOLUTION BOOK NO. 23 - PAGE 159

C. RESOLUTION NO. 96-63 - RESOLUTION AUTHORIZING AND ENDORSING THE USE OF A LIKENESS OF THE CITY BUILDING BY THE LEWIS RATHBUN WELLNESS CENTER

SUMMARY: The Lewis Rathbun Wellness Center has a collector series of ornaments. The City has received a request to grant permission for them to use City Hall as a subject matter for the fourth in the collector series of ornaments. As part of the request, Ms. Bonnie Brannon, Administrative and Development Director for the Lewis Rathbun Wellness Center, asks for an endorsement by the City Council. She also indicated that the 1995 ornament was endorsed by the Chamber of Commerce and she also plans to seek their continued support.

Staff has reviewed this request with the City Attorney. It is the recommendation of the City Attorney that City Council consider adopting a resolution authorizing the Center to use the City Hall building as a subject matter for a collector ornament, and to also consider in the resolution an endorsement of the collector series program by the Lewis Rathbun Wellness Center. To staff's knowledge, a similar request has not been received by the City for such permission or an endorsement. Therefore, by proceeding in this manner the City Council may address any future requests on an individual case by case basis.

RESOLUTION BOOK NO. 23 - PAGE 160

D. RESOLUTION NO. 96-64 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL PARCEL 4A OF THE EAST RIVERSIDE REDEVELOPMENT PROJECT

Summary: Disposal Parcel 4A is a CS Commercial Service lot near the corner of Hilliard and South French Broad Avenues, comprising 16,852 square feet. The bid from Hilliard Avenue Partnership for Disposal Parcel 4A includes the proposal to incorporate the lot into the property currently owned by Hilliard Avenue Partnership where the offices of Waddell Sluder Adams & Co. and Maryland Casualty Co. are located. The development proposal consists of landscaping and maintaining the lot consistent with the currently owned property. Hilliard Avenue Partnership consists of Robert B. Gelder Jr. and Julia Adams Slipher.

The bid of Hilliard Avenue Partnership in the amount of $67,400 for the purchase of Disposal Parcel 4A in the East Riverside Redevelopment Project is not less than the established minimum price of $67,400.

This resolution will initiate the sale of the property through the upset bid process as provided in G.S. 160A-269.

RESOLUTION BOOK NO. 23 - PAGE 161

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved to approve the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Sellers and carried unanimously.

Ordinances:

ORDINANCE NO. 2277 - ORDINANCE AMENDING HORSE DRAWN CARRIAGE REGULATIONS

At the request from a member in the audience, this item was pulled from the Ordinance Consent Agenda and discussed separately.

The summary of this action is as follows: City Council has established various locations to which horse drawn carriages are confined, and it would be beneficial to remove that specified confinement, allowing carriage routes to be approved or disapproved, in advance of their use, by the carriage inspector and the Chief of Police.

Mr. Stewart Davis, representative of the North Carolina Network for Animals, spoke in opposition of this proposed amendment. He passed out a flyer prepared by the Buncombe County Friends for Animals that was distributed in 1990 when horse drawn carriage regulations were first being developed, which outlined why the regulations are unenforceable. Said flyer noted that the following national groups opposed carriage horses: (1) Humane Society of the United States, (2) National Organization of Friends of the Animals, (3) American Society of Prevention of Cruelty to Animals, (4) Association of Veterinarians for Animal Rights, (5) People for the Ethical Treatment of Animals, and (66) Carriage Horse Coalition. The flyer also noted that the following local groups "joined together to ban carriage horses in Asheville": (1) Friends of Animals, (2) Humane Society, (3) Society for Prevention of Cruelty to Animals, and (4) Western North Carolina Animal Rights Coalition. He then read a prepared statement which, among other things, described accidents that have occurred with horse drawn carriages and car traffic, inhumane treatment of horses, etc. He said that the horse carriage inspector needed to be someone with horse experience - not the City's shop supervisor in the Fleet Maintenance Division. He also said that the ordinance calls for a Carriage Permit Advisory Board which is not in place. He urged Council not to expand the routes because the current regulations in place are not being met. He felt that if the area is expanded, more people will want to get into the business and, once again, since the regulations are not in place, the area should not be expanded.

Ms. Virginia Schmidt felt that the City should not limit the Carriage Permit Advisory Board members to only be City residents since most horse owners live in the County. She felt the City should not expand the routes since the City is negotiating an agreement with the Buncombe County Friends for Animals for animal control. She urged Council not to adopt this proposed ordinance amendment.

Mr. Richard Nantell suggested that not only the carriage inspector and the Chief of Police be allowed to approve or disapprove a route, but that the City's Traffic Engineer be involved in the process as well.

City Manager Westbrook said that the Police Department will have the ultimate responsibility, but will draw on the resources from other City departments in making their decision.

Councilman Hay felt that the issues raised were very important and asked that if we have such an ordinance in effect, that the regulations be enforced.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2277. This motion was seconded by Councilman Skalski.

On a roll call vote of 7-0, Ordinance No. 2277 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 361

ITEM REMOVED FROM THE RESOLUTIONS & MOTIONS CONSENT AGENDA

APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 9, 1996, AND THE WORKSESSION HELD ON APRIL 16, 1996

Mr. Ralph Bishop contended that State law requires full and accurate minutes to be verbatim.

Councilman Worley moved to approve the minutes from the regular meeting held on April 9, 1996, and the worksession held on April 16, 1996. This motion was seconded by Councilman Hay and carried unanimously.

VI. OTHER BUSINESS:

A. HOUSING CODE APPEAL FROM LARRY LINNEY

City Attorney Slawter stated that on April 23, 1996, the City Clerk received a facsimile copy of a motion to continue from Mr. Linney, said Motion reads "NOW COMES Respondent, Larry R. Linney, to request a continuance in the 'Unsafe Building' Appeal scheduled for Tuesday, April 23, 1996. Due to my unavailability on said date, Respondent respectfully request this matter be heard on Tuesday, April 30th; or Monday, April 29th or possibly Friday, May 3rd. This the 22nd day of April, 1996."

After discussion on a date and time suitable for all concerned, Councilman Worley moved to continue the hearing until Tuesday, April 30, 1996, at 4:30 p.m. in the Council Chamber on the Second Floor of the City Hall Building, with the goal to be finished by 6:30 p.m. This motion was seconded by Vice-Mayor Field and carried unanimously.

B. DRUG FREE WORKPLACE

At the request of Mayor Martin, and upon consensus of City Council, City Attorney Slawter was instructed to prepare a resolution establishing a policy that would require vendors who do business with the City certify that they are a drug free workplace.

C. BICENTENNIAL COMMITTEE

Mr. Richard Nantelle, representing the Asheville Bicentennial Committee, briefed Council on the status of the bicentennial logo. On behalf of the Committee, he asked that the artist of the logo receive special recognition at their next community meeting on April 29, 1996, at 7:00 p.m. in the Pack Place Forum Room. He also asked that a resolution be adopted by Council that would authorize and endorse the

logo and it's use in representing the City of Asheville in our bicentennial celebration.

Mayor Martin said that at least three Council members would be out of town on April 29 and asked that he express their regrets to the Committee for not being at their community meeting.

Vice-Mayor Field noted that Council should see the logo prior to endorsing it.

D. COMMENT BY RALPH BISHOP

Mr. Ralph Bishop again commented about the lack of action regarding the outstanding felony of someone putting sugar in his gas tank.

Mayor Martin noted that the officer that was involved in this incident retired from service over 18 years ago.

E. CLAIMS

The following claims were received by the City of Asheville during the week of April 4-11, 1996: Tonya Aranha (Police), JoAnn Williams (Streets), Katie Winchell (Water), Buncombe County Sheriff's Department (Water) and Bill Petz (Water).

The following claims were received during the week of April 12-18, 1996: Allan and Joyce Scott (Police), Sharyn Baird (Water), Charlie McAdams (Water) and Bell South (Water).

These claims will be referred to Asheville Claims Corporation for investigation.

VII. CONTINUANCE:

Councilman Worley moved to continue the meeting until Tuesday, April 30, 1996, at 4:30 p.m. in the Council Chamber on the Second Floor of the City Hall Building. This motion was seconded by Councilman Sellers and carried unanimously.

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Tuesday - April 30, 1996 - 4:30 p.m.

Continuance of Regular Meeting held on Tuesday, April 23, 1996

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

UNSAFE BUILDING STATUTE APPEAL FROM LARRY R. LINNEY REGARDING 44 SOUTH MARKET STREET

Pursuant to N.C. Gen. Stat. sec. 160A-430, Larry R. Linney, owner of a building located at 44 South Market Street has appealed to the City Council the entry of an Order by Fire Marshall Wayne Hamilton on March 8, 1996, requiring that said building be vacated and closed. That Order

requires that the building be vacated immediately and that it be secured within 30 days from the owner's receipt of the Order. In addition, Mr. Hamilton's Order requires an inspection by a licensed North Carolina engineer to evaluate the structural safety of the bearing walls and roof system within 30 days in order to determine if further action is required to insure public safety.

On March 15, 1996, the City Clerk received from Mr. Linney a Notice of Appeal from the Order of Mr. Hamilton to the City Council pursuant to N.C. Gen. Stat. sec. 160A-430.

A hearing was held and a complete copy of the transcript can be found in the Office of the City Clerk.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 10:54 p.m.

Magdalen Bradshaw
CITY CLERK

MAYOR

10

Tuesday, April 30, 1996 - 7:45 p.m.
Oakley Community Center

Community Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

The following topics were raised by residents and addressed by City Council and City staff: (1) request that City Council use it's political muscle to ensure that the safety and well-being of the residents of Oakley will continue to be a priority and that the interchange between Sweeten Creek Road and I-240 be constructed immediately in spite of the efforts of some local commissions to get other projects funded and underway (i.e., Highway 191 and Airport Road widening); (2) completion of the three-year sidewalk program along Fairview Road in the Oakley community: 1996 completion from Main Street to Sweeten Creek Road and 1997 completion from Baldwin Street to the River Ridge Market Place; (3) reduce speed to 35 mph on that section of Fairview Road from the south side of the bridge over I-240 to the intersection of School Road; (4) installation of street lights from Oakley School to I-240 Home Depot due to safety concerns and excessive traffic accidents; (5) pedestrian crosswalks/signal lights at all intersections surrounding Oakley School - Onteora Boulevard, School Road, Liberty Street, Cedar Street and Baldwin Street; (6) erecting a signalization at the intersection of Onteora Boulevard and School Road at proposed new vehicular entrance; (7) construction of sidewalks on Raleigh Road from School Road to Liberty Street and School Road to Onteora Boulevard; (8) request that City Council use it's influence in getting a variance from NC DOT that would enable the erection of a granite "Welcome to Oakley" sign. The community has been stone-walled at every attempt it has made to get such a variance; (9) request "No Parking" signs be erected on the following streets: Hilldale, Winston, "Old" Fairview Road, Oakley Road, Greenwood, Ridgecrest, Unaka, Main, Wanoca and Ridge; (10) request that in line with previous requests to have more adequate access/egress for the Wood Avenue Shopping Center, that City Council contact NC DOT to find out what it has done with requests made by the new owners of the Sayles Bleachery property regarding the construction of a new road across their property to intersect Fairview Road at Stevens Street; (11) install a flashing signalization "Do Not Block Intersection" at Oakley Road and School Road; (12) request an update on previously requested traffic impact studies concerning the Oakley community (i.e., enforcing speed limits and other traffic ordinances); (13) request ordinance to rezone to R-A1 for the Oakley neighborhood (single family - less density homes) - Oakley is now saturated with all the affordable housing they can afford; (14) the urgent need for communication tower regulations for the City of Asheville;

Mayor Martin adjourned the meeting at 9:10 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - May 7, 1996 - 12:00 p.m.
Chamber of Commerce Board Room

Luncheon with Asheville Area Chamber of Commerce

City Council Representatives Present: Mayor Russell Martin; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; Councilman Charles R. Worley; and City Manager James L. Westbrook Jr.

Chamber of Commerce representatives and others were present.

City Council met with the Chamber of Commerce and discussed items of mutual concern.

Tuesday - May 7, 1996 - 3:00 p.m.
Room 623 - City Hall Building

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CIVIC CENTER COMMISSION REPORT

Mr. Richard Schumacher, Chairman of the Civic Center Commission, reviewed with City Council the Civic Center Commission's, through its Planning Committee, long-range plans/direction for the Civic Center. He reviewed the following outline:

- Events leading to appointment of Civic Center Planning Committee
    - Need for major capital improvements (estimated $5-$8 million)
        - Facility is 24 years old
        - No major capital improvements except recent renovation of Thomas Wolfe Auditorium and Lobby in response to Community Concert complaints and ADA compliance (@ $400,000)
    - Bi-Lo Arena (17,000-18,000) opening in two-three years in Greenville
        - If major changes are not made, Civic Center will lose significant number of profitable events to Greenville
- Ideal time to evaluate/decide what direction the Civic Center should take in the next 5-20 years in order to spend capital improvement money as wisely as possible
    - Continue business as usual, with no major changes other than minimal capital improvements (still significant dollars)
    - Shift emphasis from entertainment events to trade shows/conventions (additional capital improvements)
    - Lease Civic Center to private building management group
    - Sell Center and property and/or build new facility in different location

- Council should determine method/process of making decision on Civic Center future
    - What role should Civic Center Commission/Director play in this process - do you want them to explore options/make specific recommendations?
    - Several general recommendations to City Council from the Civic Center Commission are:
        - Involve Finance Department regarding methods of financing needed capital improvements
        - Generate public discussion to achieve consensus/support

Councilman Hay, Civic Center Commission liaison, felt that this was a good time to determine what the City wants the Civic Center to do. He felt a community meeting asking the citizens what they want in the Civic Center would be beneficial.

Mayor Martin felt that since 60% of the usage of the Civic Center is by County residents, the County should contribute to the cost of improvements to the Civic Center.

Upon inquiry of Councilman Cloninger on what type of events Asheville might lose when the Bi-Lo Arena is built, Civic Center Director Jim Scott speculated that Asheville might lose about a dozen events each year. Mr. Schumacher noted that the type of shows that sell out quickly in Asheville will be the ones that will probably go to Greenville.

Vice-Mayor Field agreed with Councilman Hay that community meetings would be helpful to find out what the community wants. It was important to her that the Civic Center be diverse and flexible.

Mayor Martin asked the City Manager to research how Asheville can determine the best use of the facility in the future and report back to Council at perhaps another worksession.

TCI CABLEVISION ANNUAL RATE ADJUSTMENT REPORT

Ms. Patsy Meldrum, Assistant City Attorney, said this resolution will set a public hearing for May 28, 1996, to review the request of TCI Cablevision of Asheville (hereinafter "TCI") for an annual adjustment to its rate for the basic service tier.

The Cable Television Consumer Protection Competition Act of 1992 authorized local franchising authorities, such as the City of Asheville, to regulate the basic service tier of its local franchisee for cable television services - TCI. The City Council has previously reviewed rate schedules of TCI for the basic service tier. City staff has reviewed the annual filing submitted to the City of Asheville for TCI and finds that the calculations submitted follow the formula set forth by the Federal Communications Commission (hereinafter "FCC").

The regulations recently adopted by the FCC allow TCI to make annual adjustments to its basic service tier and to its expanded service tier. Those FCC regulations only allow the City of Asheville to review the rates for the basic service tier and only allow a review of the rates proposed for the basic service tier to determine whether or not TCI has followed the rate formula set by the FCC.

FCC regulations provide that the proposed rates will become effective 90 days after the filing of the annual rate adjustment by TCI with the City of Asheville. TCI filed its request on March 4, 1996, and the 90-day time period expires on June 2, 1996.

TCI provided the City of Asheville with a notice of its intent that its rate for the basic service tier would change effective June 1, 1996. The rate for basic service tier will increase from $9.95 a month to $10.46 a month.

The City Council has previously provided an opportunity for comment from the public and TCI by scheduling a public hearing on requests for rate increases.

Councilman Worley stressed that City Council has no authority to alter the implementation of the new rates. City Council is only allowed to review the rates for the basic service tier to determine whether or not TCI has followed the rate formula set by the FCC. Thus, the public hearing is only a place where the citizens can express their feelings - once again noting that City Council cannot change the rate if TCI has followed the FCC rate formula.

Mr. Dan Martin, General Manager of TCI, answered various questions from Council particularly with regard to the transfer of the company. He hoped that the transfer would be finalized by the end of June, if not earlier.

Ms. Meldrum responded to questions from Council as they related to the status of the franchise renewal negotiations.

Councilman Worley moved to proceed with the appropriate action at the next formal meeting. This motion was seconded by Vice-Mayor Field and carried unanimously.

DEAGAN TOWER CHIMES UPDATE

Ms. Maggie O'Connor, Historic Resources Commission Director, said that there are many things that make Asheville unique. One magical element can be found atop Douglas Elligton's famous Art Deco building, a lyrical feature from Asheville's past, the City Building's Deagan Tower Chimes.

The chimes were installed in 1932 to honor Buncombe County's World War I veterans. Over time, exposure to natural elements has silenced the sound of the once cheerful bells. A recently formed group of volunteers, Friends of the Chimes, was formed. The group is mounting a community effort to restore the tower chimes.

A fundraising drive is underway to raise $25,000 for repairs and to establish an endowment fund to insure adequate maintenance of the chimes. The goal for the project is the fall of 1997 when Asheville proudly celebrates its 200th birthday.

Two upcoming fundraising events are: (1) Father's Day weekend - June 15-16, Kenilworth Garden Tour; and (2) Asheville Community Theater Chimes Benefit.

ORDER RELATIVE TO 44 SOUTH MARKET STREET

At the request of City Council on April 30, 1996, City Attorney Slawter prepared an order relative to 44 South Market Street for Council's review.

He said the Order incorporates the additional findings regarding inadequate egress and that the building is "especially dangerous to life," in accordance with the motion adopted following the hearing on April 30, 1996. In addition, he recommended that the Council incorporate the following additional amendments into the Order, similar to the information included in the draft:

1. Amend the Conclusion of Law as set forth in the March 8, 1996 Order so as to conclude not only that the building is "unsafe", but that it is also "especially dangerous to life."

2. Modify the Order so as to allow Mr. Linney sixty (60) days to comply, rather than thirty (30) days. As he began to draft the draft Order, it became apparent that there has been no finding made that the building constitutes an "imminent danger to life or other property." N. C. Gen. Stat. sec. 160A-429 requires that the property owner be given a minimum of sixty (60) days unless such a finding is made. Council could consider making that additional finding, but allowing sixty (60) days will likely result in less complications.

He also suggested that Council give some consideration to excusing from the final vote on this matter any member of Council who was not present for the entire hearing.

He said that he did send a copy of the draft Order to Mr. Linney along with an agenda making him aware of this item before Council today.

It was the consensus of Council to proceed with the appropriate action at the next formal meeting.

SUBMITTAL OF CONSOLIDATED PLAN TO HUD

Mr. Marvin Vierra, Community Development Director, said that the City will be applying for $1,694,000 in CDBG and $1,172,000 through the HOME program for the coming year. Anticipated program income will increase available revenue for CDBG activities by $140,000. The Consolidated Plan serves as a planning document as well as the application for funding under the CDBG and HOME grant programs.

The City's Housing & Community Development Committee has reviewed applications from agencies for CDBG funds and the Asheville Regional Housing Consortium reviewed applications from agencies and local governments for HOME funds.

By use of an overhead projector, Mr. Vierra briefed the Council on the breakdown of the projects and funding source for the year beginning July 1, 1996, as follows:

PROJECT	AGENCY	CDBG	HOME
Housing Crisis Counseling	AHC	78,750	0
Homeowner Education	AHC	32,500	0
Asheville Area Habitat for Humanity	AAHH	84,932	0
Fair Housing/Employment	ABCRC	26,250	0
South Pack Square Redevelopment	COA	78,688	0
West End/Clingman Improvement	COA	25,000	0
City Wide Rehab	COA	500,000	0
Credit Counseling	CCCS	10,000	0
Redevelopment	E/MSDC	30,000	0
Homeless Program	HH	40,000	0
Hillcrest Enrichment	HACA	52,500	0
Affordable Homeownership	MHO	200,000	0
Emergency Repair	MHO	50,000	0
Rehab & Homeownership	NHS	367,500	120,000
Legal Services	PLS	20,000	0
Vanderbilt Apartments Rehab	VA	43,970	0
C D Administration	COA	193,910	0
Overlook Apartments	COA	0	225,000
Volunteers of America Apartments	COA	0	37,500
Rural Housing Rehabilitation	BC	0	80,000
River Glen Apartments	BC	0	120,000
Homeowner Rehabilitation	HC	0	171,625
New Construction Site Development	HAC	0	94,921
Homeowner Rehabilitation	MC	0	75,144
Rowenwald Hills New Construction	TCHDC	0	91,450
Homeowner Rehabilitation	WD	0	85,000
HOME Administration	COA	0	71,360
TOTAL		1,834,000*	1,172,000

* Includes $140,000 program income

Agency Index:
AHC - Affordable Housing Coalition; AAHH - Asheville Area Habitat for Humanity; ABCRC - Asheville-Buncombe Community Relations Council; COA - City of Asheville; CCCS - Consumer Credit Counseling Service; E/MSDC - Eagle/Market Streets Development Corporation; HH - Hospitality House; HACA - Housing Authority of the City of Asheville; MHO - Mountain Housing Opportunities; NHS - Neighborhood Housing Services of Asheville, NC, Inc.; PLS - Pisgah Legal Services; VA -

Vanderbilt Apartments, Inc.; BC - Buncombe County; HC - Henderson County; HAC - Housing Assistance Corporation; MC - Madison County; TCHDC - Transylvania County Housing Development Corporation; WD - Town of Woodfin

Three community public hearings have been conducted.

He noted that because the City has not received word of the final allocation (although we expect the figures within the week), all the amounts used are the same amounts used year. He felt sure that we would at least receive the same allocation as last year. He did note, however, that the City can amend the application at anytime during the year.

Councilman Hay, Chairman of the Housing & Community Development Committee, said that the Committee couldn't reach a consensus on the Eagle/Market Streets Development Corporation funding. It was hopeful that the whole Council could agree on an appropriate amount, but favored substantially increasing the at present proposal of $30,000.

Mr. Vierra said that perhaps the South Pack Square Redevelopment allocation of $78,688 could be re-allocated to Eagle/Market Streets Development Corporation, bringing their total to 108,688.

Councilman Hay offered to prepare a specific proposal on how the City can increase the allocation to the Eagle/Market Streets Development Corporation for the Council's consideration at their next meeting.

Mr. H. K. Edgerton reminded Council that they need to take a serious look at mixing young people with older people in particular with the Overlook Apartments.

Dr. J.H. Grant, Chairman of the Board of Directors of the Eagle/Market Streets Development Corporation, thanked the Council for revisiting the reallocation issue.

It was the consensus of Council to proceed with the appropriate action at the next formal meeting.

PARKING METER ZONES AND PARKING PROHIBITION

Ms. Deborah Crowder, Revenue Manager, said that the City of Asheville currently has established parking meter zones in various locations at various times, and it would be beneficial to establish one list of those zones in the Code of Ordinances. In addition, the City allows on-street parking in areas that are not metered, but are restricted by signs or traffic conditions. Enforcement of these unmetered spaces will be simplified by requiring all legal spaces in the Central Business District to be designated.

This recommendation has been reviewed by the Revenue Manager, the Traffic Engineer, the Superintendent of Parking Services and the City Attorney's Office.

It was the consensus of Council to proceed with the appropriate action at the next formal meeting.

MALT ALCOHOL REGULATIONS

Police Chief Will Annarino said that this ordinance would establish regulations regarding the consumption and possession of malt

beverages and/or unfortified wine on City streets and sidewalks, on City property and during community events and festivals.

In 1995, the North Carolina General Assembly authorized cities to adopt a local ordinance to regulate or prohibit the consumption of malt beverages and/or unfortified wine or the possession of open containers of malt beverages and/or unfortified wine on public streets and to regulate or prohibit the possession of malt beverages and/or unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events. The N.C. League of Municipalities prepared a model ordinance for cities in North Carolina to consider. The Asheville Police Department and the Asheville Parks and Recreation Department have reviewed the model ordinance prepared by the League and recommend adoption of that model, with certain modifications for community events and festivals and for outdoor dining areas which are permitted by the City of Asheville.

The ordinance would prohibit consumption of malt beverages and/or unfortified wine on public streets and on property which is owned, occupied or controlled by the City, but excluding specific locations for which an ABC permit has been issued and only according to the requirements to the ABC permit. In addition, this draft ordinance would prohibit the possession of open containers of malt beverages and/or unfortified wine on the public streets and on property owned, occupied or controlled by the City, excluding again specific locations for which an ABC permit has been issued.

The ordinance would allow possession and consumption of malt beverages and/or unfortified wine at community events and festivals whenever the City Council adopts a resolution making specific provisions for that. In a separate resolution, the Asheville Police Department and the Asheville Parks and Recreation Department are setting forth provisions for consumption and possession during the 1996 Bele Chere Festival.

Finally, the ordinance would allow possession and consumption in outdoor dining areas which have been issued a City of Asheville permit as the Code of Ordinances now provides. Those permits would be temporarily suspended during community events and festivals, unless the City Council provides otherwise by separate resolution.

A violation of the ordinance constitutes a misdemeanor. Enforcement would be by the Asheville Police Department.

The Asheville Police Department and the Asheville Parks and Recreation Department recommend adoption of the ordinance.

It was the consensus of Council to proceed with the appropriate action at the next formal meeting.

AUTHORITY FOR DIRECTOR OF PARKS & RECREATION TO EXECUTE FESTIVAL AGREEMENTS WHICH ARE CO-SPONSORED BY THE PARKS & RECREATION DEPARTMENT

Mr. Irby Brinson, Director of Parks & Recreation, said that this resolution is to authorize the Director of the Parks and Recreation Department to execute festival agreements for festivals that are sponsored or co-sponsored by the Department.

The Parks and Recreation Department currently sponsors or co-sponsors approximately 17 festivals and special events on an annual basis. These events include, but are not limited to, Bele Chere, July 4th, First Night, and Goombay. There are a number of agreements for entertainment and sponsorships which are currently signed by the City Manager. This resolution would allow the Parks and Recreation Director the authority to execute these agreements and has also been approved by the City Manager.

The Parks and Recreation Department requests that the Director be authorized to execute agreements related to conducting, sponsoring, promoting, and assisting with community festivals and special events which are included in the responsibilities of the department.

It was the consensus of Council to proceed with the appropriate action at the next formal meeting.

ANIMAL CONTROL

Mr. Irby Brinson, Director of Parks & Recreation, said that the purpose of this ordinance amendment is to prohibit animals from community events and festivals unless allowed as part of an event.

Community events and festivals serve a tremendous need for the community by showcasing our heritage and cultural diversity. These events traditionally draw large numbers of participants usually in a very concentrated area. Problems have occurred during these events by participants bringing in animals and reptiles which have become a nuisance to other participants and event organizers. In an effort to control this problem, the Parks and Recreation Department wishes to amend Chapter 3 of the Code of Ordinances, Section 3-27, Subsection (E). This amendment shall not apply to guide dogs trained to provide assistance to sight or hearing impaired persons. Furthermore, this ordinance would allow festival organizers to permit other animals which may be part of the festival program.

The staff of the Parks and Recreation Department recommends amending Chapter 3 of the Code of Ordinances, Section 3-27, Subsection (E), to prohibit animals from community events and festivals.

It was the consensus of Council to proceed with the appropriate action at the next formal meeting.

LETTER TO ABC COMMISSION RELATIVE TO BELE CHERE FESTIVAL

Mr. Irby Brinson, Director of Parks & Recreation, said that the resolution will regulate the consumption and possession of malt beverages and/or unfortified wine at the 1996 Bele Chere Festival. Also there is a letter to the ABC Commission requesting that there be no extension of premises for ABC outlets during the 1996 Bele Chere Festival weekend.

The Bele Chere Board of Directors last year approved performing an alcohol assessment for the 1995 Bele Chere Festival. The results of this report indicate that the Bele Chere staff and volunteers are committed to responsible alcohol management during the Festival. Several concerns were made that include the lack of written alcohol policies and procedures and local businesses within the perimeter of the Festival selling cans and bottles of beer in an irresponsible and

sometimes illegal manner. According to reports given by the Asheville Police Department and ALE, a total of 151 arrests or citations were given by both agencies during Bele Chere which, for the majority, were alcohol related.

In an effort to address concerns established from the Home Team report, the Parks and Recreation Department and the Bele Chere Board of Directors are recommending certain actions be taken. First, we recommend that City Council write the ABC Commission and request that the ABC Commission not grant extension of premises for ABC outlets during the 1996 Bele Chere Festival. This extension allows businesses to sell off premises and outside their establishment. We feel that this would help alleviate some of the problems caused by businesses removing their windows and selling beer directly from their premises and into the street. Secondly, the Parks and Recreation Department and the Bele Chere Board of Directors request the adoption of a resolution which would restrict the possession and consumption of alcohol to only certain areas of the Bele Chere Festival area. Restricting possession and consumption to certain areas will further promote the establishment of areas for family-oriented activities. The resolution also establishes a time period after which alcohol sales will stop during the Festival and only allows possession and consumption from Bele Chere Festival containers. The Parks and Recreation Department and the Bele Chere Board of Directors will also be developing alcohol policies and procedures which will govern the Bele Chere operations.

The Parks and Recreation Department, the Bele Chere Board of Directors and the Police Department recommend authorizing the Mayor to send a letter to the ABC Commission and recommend adoption of the resolution regarding alcohol possession and consumption at the 1996 Bele Chere Festival.

Upon inquiry of Vice-Mayor Field, Ms. Patsy Meldrum, Assistant City Attorney, answered various questions as they related to the different Code provisions

Mr. Andrew Craig, representing the downtown merchants, and Mr. Ray Bailey, 1996 Festival Chairman, spoke in support of this resolution.

It was the consensus of Council to proceed with the appropriate action at the next formal meeting.

SISTER CITY UPDATE

Vice-Mayor Field reported on her Sister City visit to San Cristobal de las Casas, Mexico. She spoke about the gracious hospitality that was shown to her.

She said that the City has received a grant of $500 from the Robert J. and Eunice J. Wagner Foundation to be used toward the Sister City visit to San Cristobal de las Casas, Mexico. She asked that Council appropriate that grant to the Sister City budget.

It was the consensus of Council to proceed with the appropriate action at the next formal meeting.

CONTRACT FOR RIGHT-OF-WAY MOWING AND PARK MAINTENANCE

Mr. John Miall, Risk Manager, said that pursuant to the Report on Privatizing Certain City Services, presented to the City Council at its retreat in January, 1995, and following the solicitation for proposals

from private contractors to provide mowing and leaf removal services at various City-owned locations, the following is submitted for the Council's consideration.

In staff's initial presentation to the Council on privatizing City services, it was recommended that the City adopt the Federal Government OMB Circular 71 standard for privatization. This standard uses a benchmark of 10% of direct personnel costs as the savings threshold to justify privatizing a public service.

Based upon the responses to the RFP sent out by the City, and following an intensive review of the City's costs for providing the same services, it has been determined that by accepting the low quote from Professional Lawn Care Service, that the City can realize a savings of approximately 20%, or $40,742 of its annual personnel costs for mowing and leaf removal. According to the Internal Auditor, the City's cost for these services is:

Salaries & Operating Costs only:

Salaries/Fringes	243,575
Operating costs	11,935
Total	255,510

The RFP allowed contractors to respond to any one, or combination of 6 geographic areas. It was stated in the RFP, and in the pre-bid conference that preference would be given not only to the lowest cost, but to the contractor(s) quoting all 6 areas together. Two respondents, including the recommended contractor did so.

It is expected that the proposed agreement will result in the displacement of nine seasonal employees in the Parks and Recreation Department (some of whom have already been hired by the City for the season, with the understanding that their jobs may be eliminated before the end of the season); and as many as six full-time employees, currently in the Parks and Recreation, and Public Works Departments. The Contractor does not anticipate hiring any more full-time employees to fulfill his obligations under the agreement, but is prepared to agree in the agreement proposed to offer employment to some of the seasonal employees displaced, to the extent that he needs to hire any additional staff.

The City's Personnel Director expects that it will be possible to place the displaced full-time employees in currently available, vacant positions elsewhere in the City, to the extent that they meet minimum eligibility requirements for any vacancies, and subject to approval by the Civil Service Board.

During the bid process, a pre-bid conference was held, in part to allow potential contractors to ask questions of the City's Minority Business Coordinator. The recommended contractor has submitted appropriate documentation to the City that he does not intend to sub-contract any portion of the work in question. Therefore, there are no further Minority Business compliance issues.

It should be noted that the Public Works and Parks and Recreation Departments feel that the elimination of the positions in question could have an adverse impact on some other departmental operations. The current staff perform other essential non-mowing work during the course of the year including, but not limited to landscaping, brush and trash clean-up, and major storm clean-up. Although this agreement will not

compromise the City's ability to perform these other functions, it is likely that our overall response time to some needs may be significantly reduced.

Staff recommends the approval of the proposed agreement for the remainder of the calendar year 1996, with an option to renew it for successive one year periods, depending upon the mutual satisfaction of the parties, and upon their reaching mutually agreeable terms. The City will keep their inventory for at least a year.

Based upon the bids received, it is recommended that the City not contract out the mowing of Riverside Cemetery, as the bid from the staff at the Cemetery was found superior to any others received. The balance of the areas identified as North, South, East, West, and Central in the RFP are recommended for privatization at this time.

Councilman Cloninger fully supported the concept of privatization, but was concerned that some of the City's basic services might be compromised, such as brush pickup.

Mr. Mark Combs, Public Works Director, spoke to the issue of three full-time positions being eliminated in his Department. He felt that with the addition of some overtime in his budget, his Department could handle the loss.

Mr. Irby Brinson, Director of Parks & Recreation, also spoke to the issue of eliminating two full-time positions from his Department. Since his crews can perform a lot of different jobs, he felt that with the addition of $5,000 in his overtime budget, he would have no problem in this particular privatizing.

Upon inquiry of Councilman Sellers, Mr. Miall responded to questions about liability.

City Manager Westbrook reassured Council that this will not affect basic City services.

Mr. H. K. Edgerton stated his concerns about whether or not Professional Lawn Care Services has submitted the property documents to support compliance with the Minority Business Plan. He questioned the accuracy of information given out at the pre-bid conference specifically about the offer by the City of possible lease or purchase of the City's current inventory.

Ms. Cindy Batson, Internal Auditor, responded to the concern of Mr. Edgerton relative to the use of the City's equipment.

Mr. Clarence Benton also expressed concerns about the bid and asked that Council postpone taking any action on this matter until the issue about proper documentation for MB Plan compliance is cleared up. He felt that if the City was going to be sincere in trying to reach minority businesses, they should have split up the areas and let contractors bid on smaller scales.

When Council questioned if the proper MB Plan form was submitted, Mr. Pitts, owner of Professional Lawn Care Services, stated that as far as he knew, he did submit the proper MB-2 form.

Councilman Hay asked that, at the formal meeting next week, the City's Minority Business Coordinator be present at the meeting to respond to concerns expressed about whether the Minority Business Plan has been complied with.

Mr. Benton asked that if Mr. Pitts bid is not found to be the lowest, responsible bidder that the City re-bid the proposal in smaller areas.

Mr. Miall felt that Council will need to define "compliance" with the Minority Business Plan.

Mr. Crump, bidder, felt that information given in the pre-bid conference by City staff was misleading.

It was the consensus of Council to ask the City's Minority Business Coordinator be present at the next formal meeting to respond to questions as they relate to the compliance of the Minority Business Plan.

MSD POLICY OF NOT EXTENDING SEWER LINES

City Manager Jim Westbrook said that the Metropolitan Sewerage District ("MSD") will be considering a resolution on May 15, 1996, adopting a policy of not extending sewer lines. He felt that MSD's policy is inconsistent with City and County strategies for economic development and makes MSD inconsistent with other utilities operating within Buncombe County which extend their facilities. He felt this is a grave issue and one which has long term implications for all of Buncombe County.

Ms. Angie Chandler, representing the Chamber of Commerce, said that the Chamber Board has voted to oppose MSD's policy.

Councilman Worley moved that a letter be sent to MSD requesting they delay consideration of this resolution until mid-June. During that time period, Council can discuss, with different agencies and individuals, the possible ramifications of MSD's policy and the Council will also have a chance to discuss this proposed policy with the City appointed MSD representatives. This motion was seconded by Councilman Skalski and carried unanimously.

CONSENT:

Adoption of Fair Housing Plan

Summary: The Fair Housing Plan identifies certain impediments to fair housing and sets forth affirmative steps to overcome impediments. This Fair Housing Plan fulfills the HUD requirements for CDBG and HOME. Adoption of the Plan will demonstrate the City's commitment and support of a housing policy that integrates fair housing opportunity for all people.

Grant Application for Public Nuisance Abatement Team

Summary: The Police Department is seeking federal support for a project designed to assist the public with solving persistent crime problems and quality of life issues within neighborhoods of the City of Asheville. The Public Nuisance Abatement Team project is designed to deny criminals the use of real property as a base of operations and to secure owner cooperation in removing criminal elements from offending properties. The proposed project will target owners of properties that engage in assignation, prostitution, gambling, illegal sell or possession of alcohol/controlled substances/obscene or lewd material and where repeated actions of breeches of the peace are committed. Federal support is requested for 75% of the project costs. The project budget is $73,000 beginning July 1, 1996, and continuing through June 30, 1997.

A local matching contribution of $18,250 is required by the grantee. This is a one year project. It may be eligible for additional expansion funding beginning July 1997. At the end of the grant period, the position of the nuisance abatement officer will be evaluated for consideration of continuation funding by the City.

It was the consensus of Council to proceed with appropriate actions on the Consent Agenda at the next formal meeting.

OTHER BUSINESS

Greenway Planning

Ms. Erin McLoughlin, Urban Planner, said that City and County Planners and Parks people have been meeting concerning the potential for joint greenway planning and development. They have been gathering models and information from other cities as to how others have handled such cooperative ventures. Two of the top greenway planners in the county have agreed to meet with the City and County about this issue, at no cost. They would assess our situation and talk to us about greenway planning, moving on a "model" project and other critical issues like the formation of an interlocal agreement, financing, etc.

It was the consensus of City Council to invite the greenway planners to a breakfast meeting with City Council, Buncombe County Commissioners, RiverLink representatives, representatives from the different utilities, and appropriate staff, on Thursday, May 30, 1996, at 7:30 a.m. A place is yet to be determined.

BOARD AND COMMISSIONS:

It was the consensus of Council to instruct the City Clerk to arrange interviews for vacancies on the following boards and commissions: (1) Air Pollution Control Board; (2) Airport Authority; (3) Board of Adjustment; (4) Citizens/Police Advisory Committee; (5) Civic Center Commission; (6) Civil Service Board; (7) Downtown Commission; (8) Drug Commission; (9) Historic Resources Commission; and (10) Recreation Board.

CLOSED SESSION

At 7:05 Vice-Mayor Field moved to go into closed session as authorized by G.S. 143-318.11 (a) (6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee. This motion was seconded by Councilman Worley and carried unanimously.

At 7:20 p.m., Vice-Mayor Field moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:20 p.m.

Magdalen Bowlson
CITY CLERK

MAYOR

Tuesday - May 14, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 12-18, 1996, AS "ARSON AWARENESS WEEK"

Mayor Martin read the proclamation proclaiming May 12-18, 1996, as "Arson Awareness Week" in the City of Asheville. He presented the proclamation to Harley Shuford, Director of the Asheville-Buncombe Arson Task Force and Asheville's Fire Investigator. Mr. Shuford thanked the Council for their support and reiterated the importance of stopping arson.

Mr. Ralph Bishop thanked the Fire Department for rescuing him and others from a fire in the early 1970's.

Mr. Bob York, owner of the Grace Apartments, stated that the Arson Task Force did an excellent job when investigating the fire set at Grace Apartments last year.

B. PROCLAMATION PROCLAIMING MAY 18-24, 1996, AS "NATIONAL SAFE BOATING WEEK"

Mayor Martin read the proclamation proclaiming May 18-24, 1996, as "National Safe Boating Week" in the City of Asheville. He presented the proclamation to the Commander of the Asheville Power Squadron who briefed the Council on the importance of safe boating.

C. PROCLAMATION PROCLAIMING MAY 19-25, 1996, AS "EMERGENCY MEDICAL SERVICES WEEK"

Mayor Martin read the proclamation proclaiming May 19-25, 1996, as "Emergency Medical Services Week" in the City of Asheville. He presented the proclamation to Fire Captain Tim Hinman who summarized four incidents in 1996 that EMS personnel played a vital role in.

D. PROCLAMATION PROCLAIMING MAY 21, 1996, AS "BIKE TO WORK DAY"

Mayor Martin read the proclamation proclaiming Tuesday, May 21, 1996, as "Bike to Work Day" in the City of Asheville. He presented the proclamation to Ms. Elizabeth Teague, Facilitator with the Asheville Urban Area Bikeways Task Force.

Councilman Hay personally challenged City Council to bike to the worksession on Tuesday, May 21. Vice-Mayor Field stated that she doesn't ride bikes, but would be willing to walk. Vice-Mayor Field suggested the City put in bike racks at City Hall for those who do chose to ride.

E. MAGDALEN BURLESON - RECIPIENT OF THE CERTIFIED MUNICIPAL CLERK DESIGNATION

Mayor Martin and members of Council congratulated City Clerk Maggie Burleson for receiving the distinguished title of Certified Municipal Clerk from the International Institute of Municipal Clerks.

Mayor Martin noted that Maggie is the first City Clerk in Asheville's history to have received this honored title.

F. RESOLUTION NO. 96-65 - RESOLUTION AUTHORIZING AND ENDORSING THE LOGO FOR ASHEVILLE'S BICENTENNIAL YEAR

Mayor Martin said that on February 27, 1996, the City Council established a Bicentennial Committee to help organize and promote the bicentennial year celebration featuring Asheville's cultural and social diversity, and history. After reviewing eight logos, the Bicentennial Committee has requested that the City Council authorize and endorse the logo created by Kristi Pfeffer, from Design One, as the official bicentennial logo of the City of Asheville.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-65. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 162

G. RESIGNATION OF CITY ATTORNEY WILLIAM F. SLAWTER

City Attorney William F. Slawter read the following letter dated May 14, 1996, to Mayor Martin and Members of City Council: "As I have now informed each of you individually, I have decided to resign from my position as City Attorney. I appreciate very much all of the support and confidence that this Council and prior Councils have placed in me in allowing me to serve in this capacity since 1983. When I accepted the appointment as City Attorney 13 years ago, I never intended to remain in the position for as long as I have. While I have enjoyed the opportunities and challenges presented by the position of City Attorney, it has at times been difficult to meet the demands of that office and at the same time maintain my private law practice. It has always been my intention to return full time to my private law practice, and I have decided that now is the time for me to do so.

In trying to determine the best time to make the change in order to have the least impact upon the City, it seemed to me that a resignation date of July 1, 1996, coinciding with the beginning of the new fiscal year, would be most appropriate. I will be happy to continue to work with the City in any way possible after that date, both to facilitate the change to a new City Attorney and also to assist the City in addressing any other legal issues that may arise.

It has been my desire from the beginning to see that the City is provided competent legal services at reasonable cost. I hope that my service to the City has been successful in accomplishing that result. With the benefit and assistance of two capable and qualified full-time Assistant City Attorneys, I am sure that the transition will flow smoothly.

Thank you again for allowing me the opportunity to serve as City Attorney."

Mayor Martin said that "it's with sadness that we received this because we all feel very good about what you have done here in the past and we'll really hate to see you leave. I'll invite any other comments."

Vice-Mayor Field said that "we're not going to accept it."

Mayor Martin said that "I can't even get anybody to make a motion to accept his resignation. You're going to have to stay. We really do regret this but we have to understand your wish, really, to move on into your private practice and understand that we do so with reluctance. Thank you for all those years."

City Manager Westbrook said that "on behalf of the staff I'd like to say, too, how much not only I and the folks here today but all the ones who have served with Bill over the years, how we appreciated his sound advice and confidence and we're going to be real sorry to see him go."

Vice-Mayor Field said that "actually I've known Mr. Slawter for longer than I've been on Council and he's always there when you have a question and he always provides balanced and just well thought out advise to all of us on Council and I certainly will miss you and I'm not going to accept your resignation."

Councilman Sellers said that "I appreciate Bill, being a lay person of the law, I appreciate his simplicity in explaining things to us - not only here in the formal sessions but in closed sessions. He'll be greatly missed."

Councilman Worley said that "I also have known Bill for a good deal longer than the time I've been on City Council - it goes all the way back to our days in a fraternity house at Chapel Hill. Well, I've threatened to tell tales on him if he didn't withdraw the resignation. As a lawyer myself, I think I'm in a unique position to appreciate the soundness of the advise that he's given us, both in my first term on Council and during this term on Council. I have never found fault with any of the advise that he's given. I've never felt the need to go back and double-check the research he's done. I have the utmost confidence in Bill - always have and, I believe, always will. And I hope that Bill will continue to be of assistance to the City in his legal services in some capacity even beyond July 1. I asked Bill when he told me that he wanted to resign, if he had any problems with serving on a Council with three other lawyers on it - he assured me that's not the case and I haven't seen any evidence of that."

Councilman Hay said that "those of us who are new, I speak for myself, but I bet it's true for the rest, you know, the whole thing has been pretty overwhelming coming into it and being able to count on you as somebody we can trust and feel comfortable with has made a big difference to me and I really appreciate your being there."

Councilman Cloninger said that "I would just like to echo what's been said and also say, similar to what Charlie was saying - as a fellow attorney, I have just really appreciated how knowledgeable Bill is on a variety of topics. We will in some meetings bombard him with questions on, you know, 15 different subjects and yet he has such a good command of the law in so many areas that he's able to give us quick and good sound advise whenever we've asked for it. So, I think the City's really losing a valuable asset, but we certainly wish him the best and hope to find out, work out some way to continue to draw upon his expertise in City related matters."

Councilman Skalski said that "even your attorney friends that I know at the Y, Bill, I haven't heard one of them say one bad thing about you. So, if you can survive the Y locker room, you can survive anything. It is true that Bill has a wide range of knowledge in just about every area of municipal law. And one of the things that makes it hard is that different cities have different applications of General Statutes and Bill seems to know which ones apply to us."

Councilman Worley said that "only with the understanding that the majority of Council has conspired to vote against the motion do I move to accept Bill's resignation with deep regret." This motion was seconded by Councilman Sellers and reluctantly carried unanimously.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO LEVY SPECIAL ASSESSMENTS FOR THE RHODODENDRON CIRCLE PROJECT

RESOLUTION NO. 96-66 - RESOLUTION DIRECTING THAT THE RHODODENDRON CIRCLE PROJECT BEGINNING AT ITS INTERSECTION WITH RHODODENDRON PLACE AND ENDING AT ITS INTERSECTION WITH OLD HAW CREEK ROAD BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES

Mayor Martin opened the public hearing at 5:42 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mark Combs, Director of Public Works, said that the City of Asheville Public Works Department has received a petition from the property owners who represent the majority of lineal feet of frontage on Rhododendron Circle requesting that the street be upgraded to City street standards and placed on the City's street system.

Public Works staff has determined that the street will need spot repairs to the base and patching with asphalt in the spot areas that are badly "alligatored" along with total resurfacing. The cost of these repairs has been estimated at $32,038.52. The current City policy is that if the majority of the petitioning property owners who represent a majority of the front footage agree to pay their share of the cost, which is 50% of the total, that the petition will be presented to City Council for consideration. Each property owner along the street has been contacted and given their 50% share of the cost, as well as the opportunity to respond as to whether they agree to participate or not.

Over 50% of the property owners who represent over 50% of the front footage have responded that they agree to participate in the share of their estimated amount. Out of 11 property owners, 6 responded "yes" to sharing the cost, 4 responded "no" to sharing in the cost and no response was received from one owner. The yes response represents 54.55%. The total front footage along the street is 1,358.91 feet. The "yes" responses represented 904.44 feet. The "no" responses including the one owner who did not respond represented 608.18 feet of frontage. The "yes" responses represents 66.56% of the frontage along the street.

Rhododendron Circle is a through street that runs between Old Haw Creek Road and Rhododendron Place. The area was annexed into the City in 1988. When the area was annexed, the City accepted all streets in the area that were publicly maintained by N.C. DOT as City's system streets, with the exception of New Haw Creek Road. Rhododendron Circle was not maintained by N.C. DOT so, therefore, did not become a City maintained street.

Staff recommends that the City Council adopt a resolution to levy special assessments for the petitioned Rhododendron Circle project and agree to accept maintenance following completion of this work.

Mayor Martin closed the public hearing at 5:44 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Cloninger moved for the adoption of Resolution No. 96-66. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 164

III. UNFINISHED BUSINESS:

A. ORDER REGARDING LARRY LINNEY UNSAFE BUILDING STATUTE APPEAL

City Attorney Slawter said that this Order comes out of the hearing Council conducted on April 30, 1996, which was related to an appeal to the Council pursuant to State law made by Larry Linney, owner of the building located at 44 South Market Street. That building had previously been found unsafe and an Order had been entered by Fire Marshal Wayne Hamilton on March 8, 1996, that the building vacated and closed in addition to ordering an engineering analysis of the building to be conducted. Pursuant to law, Mr. Linney appealed to City Council. Following the hearing on April 30, the City Attorney was directed to draft this Order. He did provide a copy of this Order to Mr. Linney prior to last week's worksession and has to date received no comment from him.

This order, as directed by Council, will uphold the Order entered by Fire Marshal Wayne Hamilton on March 8, 1996, but makes just a couple of changes. Mr. Hamilton's Order had found that the building was unsafe (1) due to having excessive cracks in the exterior building walls; (2) due to sagging and decayed roof rafters; (3) extensive water damage to the third floor; and (4) unsafe electrical wiring. This Order carries forth those findings but adds the additional finding that the building has inadequate means of egress. In addition, this Order makes the finding that the building identified as 44 South Market Street is especially dangerous to life because of bad condition of walls, decay, unsafe wiring and inadequate means of egress. Based upon those additional findings, the Conclusion of Law in this Order is amended to read that the building, in its present condition, is unsafe and especially dangerous to life. The Order directs that Mr. Hamilton's Order be complied with in that the building must be vacated and closed and the engineering report obtained on the structural integrity of the building, but it extends from 30 days to 60 days the time period within which Mr. Linney is allowed to do those things and that's based upon a statutory provision. Other than that, this Order carries forward Mr. Hamilton's Order of March 8, 1996.

Councilman Worley responded to questions from Mr. H.K. Edgerton as they related to the building and it's location in the South Pack Square Redevelopment Project area.

Upon inquiry of Mr. Daniel Breen on whether the inspection of 44 South Market Street was politically motivated, Mayor Martin stated that City Council listened for 4-1/2 hours at the appeal hearing on April 30 and they were satisfied that there was nothing was directed toward Mr. Linney as a politician or as a person.

Councilman Worley moved to authorize the Mayor to sign the Order prepared by City Attorney Slawter. This motion was seconded by Councilman Sellers and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 96-67 - RESOLUTION AUTHORIZING SUBMITTAL OF THE CONSOLIDATED PLAN TO HUD

Mr. Marvin Vierra, Community Development Director, said that the City has now received notification from HUD of the allocations for next year. The funding for CDBG funds is $73,000 less than reported at last week's worksession. The total we will now be applying for $1,621,000. The funding for HOME program funds is $157,000 less than reported at last week's worksession. The total for HOME funds we will now be applying for is $1,015,000. Anticipated program income will increase available revenue for CDBG activities by $290,000. The Consolidated Plan serves as a planning document as well as the application for funding under the CDBG and HOME grant programs.

The Housing & Community Development Committee have since met and the following is the revised breakdown of the projects and funding source for the year beginning July 1, 1996:

(see following page)

PROJECT	AGENCY	CDBG	HOME
Housing Crisis Counseling	AHC	78,750	0
Homeowner Education	AHC	32,500	0
Asheville Area Habitat for Humanity	AAHH	84,932	0
Fair Housing/Employment	ABCRC	26,250	0
West End/Clingman Improvement	COA	25,000	0
City Wide Rehab	COA	500,000	0
Credit Counseling	CCCS	10,000	0
South Pack Square Redevelopment	E/MSDC	185,688	0
Homeless Program	HH	40,000	0
Hillcrest Enrichment	HACA	52,500	0
Affordable Homeownership	MHO	200,000	0
Emergency Repair	MHO	50,000	0
Rehab & Homeownership	NHS	367,500	83,206
Legal Services	PLS	20,000	0
Vanderbilt Apartments Rehab	VA	43,970	0
C D Administration	COA	193,910	0
Overlook Apartments	COA	0	225,000
Volunteers of America Apartments	COA	0	37,500
Rural Housing Rehabilitation	BC	0	80,000
River Glen Apartments	BC	0	120,000
Homeowner Rehabilitation	HC	0	171,625
New Construction Site Development	HAC	0	65,817
Homeowner Rehabilitation	MC	0	75,144
Rowenwald Hills New Construction	TCHDC	0	85,348
HOME Administration	COA	0	71,360
TOTAL		1,911,00 0*	1,015.00 0

* Includes $290,000 program income

Agency Index:
AHC - Affordable Housing Coalition; AAHH - Asheville Area Habitat for Humanity; ABCRC - Asheville-Buncombe Community Relations Council; COA - City of Asheville; CCCS - Consumer Credit Counseling Service; E/MSDC - Eagle/Market Streets Development Corporation; HH - Hospitality House; HACA - Housing Authority of the City of Asheville; MHO - Mountain Housing Opportunities; NHS - Neighborhood Housing Services of Asheville, NC, Inc.; PLS - Pisgah Legal Services; VA - Vanderbilt Apartments, Inc.; BC - Buncombe County; HC - Henderson County; HAC - Housing Assistance Corporation; MC - Madison County; TCHDC - Transylvania County Housing Development Corporation;

Councilman Hay, Chairman of the Housing & Community Development Committee, noted that the HOME grant is not something the City Council has responsibility over.

Upon inquiry of Councilman Skalski, Mr. Vierra explained why the allocation for the Eagle/Market Street Development Corporation funding was $30,000 last week and now is $185,688. He said that on an average, all agencies were getting 77% of what they had requested - most got funded at less than they had applied for.

Mayor Martin stressed that we need to see the Eagle/Market Street area redeveloped in a mannerly fashion.

Vice-Mayor Field, Chairman of the HOME Regional Housing Consortium, said that they went through a very exhaustive process and it was very hard to cut back. She said they are required to give 15% of the income to non-profits but they are giving, even with the cutbacks, 24% to the non-profits. She respectfully requested that the Council approve the HOME application amounts in the Consolidated Plan.

Mr. H.K. Edgerton voiced concern over the $225,000 going to Overlook Apartments. He once again stressed that the community does not want to separate young people from old people.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Hay moved for the adoption of Resolution No. 96-67. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Skalski voting "no".

Councilman Skalski explained his vote by saying that he could not support the motion because he felt the money was misallocated. He felt the money that was transferred since last week from housing programs for the poor should stay with housing programs for the poor. He didn't think that money should be transferred to the Eagle/Market Street Development Corporation because he didn't think that's what the money is going to be used for. He supported all the other agencies that are receiving money. However, because of that one misallocation, which he feels is inappropriate, he would have to vote against the resolution.

Ms. Minnie Jones thanked Council members for revisiting the funding issue for Eagle/Market Streets Development Corporation. While directing the comment to Councilman Skalski, she asked that the minutes reflect "at 6:15 p.m. on May 14, 1996, that you voted against the minority people on Eagle and Market Street."

Dr. J.H. Grant, Chairman of the Board of Directors of the Eagle/Market Streets Development Corporation, thanked the Council for their support of the Eagle/Market Streets Development Corporation.

Mr. Daniel Breen felt that more money should be allocated to Pisgah Legal Services and ABCCM to directly help with the poor in the community. He suggested cutting the Chamber of Commerce funding and allocating that money to services that directly benefit the poor.

Councilman Hay said that out of the $1,911,000 that the City has allocated with the CDBG funds, almost $1,800,000 go to low income housing projects. We are funding for the first time Pisgah Legal Services out of the CDBG grant money and we're increase virtually every allocation that was made last year.

Mr. Tony Sayer, President of the Affordable Housing Coalition, made it clear that our agencies are aware that the allocation that was made to the Eagle/Market Streets Development Corporation was not made at the expense of the housing agencies. He also said that we are seeing first hand the effects of cuts at the national level and we understand that this makes our task locally much more difficult. That means that we all have to work hard to find other ways of making funds available at the local level.

RESOLUTION BOOK NO. 23 - PAGE

B. RESOLUTION NO. 96-68 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH PROFESSIONAL LAWN CARE FOR MOWING AND LEAF REMOVAL SERVICES

Mr. John Miall, Risk Manager, briefed the Council on his presentation at the worksession held on May 7, 1996, relating to the proposals from private contractors to provide mowing and leaf removal services at various City-owned locations.

Because of the concerns expressed at that worksession regarding the low bidder's compliance with the Minority Business Plan ("MB Plan"), Mr. Miall outlined portions of the MB Plan and how the low bidder has complied with those specific portions. He also presented a letter dated May 10, 1996, from Marilyn Bass, Minority Business Coordinator, which states, in part "Mr. Pitts has supplied the information requested corresponding with bullet #3 on the MB Form 2 detailing his current work force from 1995 to the present. He has also agreed and you indicated language will be included in the body of the contract that should he decide to subcontract at any time during the contract period he will perform good faith efforts to provide subcontracting opportunities for minority businesses. Based upon the discussion at both meetings and the information received as well as the fact that according to the bid documents, the work for this project was to commence April 22nd, the bidder has satisfactorily complied with the Minority Business Plan."

He then addressed each of the other concerns raised last week regarding the equipment availability, the perception of the minority businesses being deceived and the feeling that there was not enough time to submit bids.

Mayor Martin said that it is the intent of this Council to outsource were we can to save for all taxpayers of the City and this privatization seems to be in that mode. If, however, this is not successful, the City can revisit it again.

Councilman Hay felt this privatization could have been a good opportunity for some healthy minority business involvement. He felt that the City should go back and study the process that was used in order to see how we can improve our system so that these type frustrations don't come up again in similar situations.

Mr. Miall agreed with Councilman Hay by saying that if this process has taught us anything, it has taught us that we need to review the process. He said the Plan relates to a lot of construction-type issues and there is not a lot of guidance when you get into the profession services issues.

Vice-Mayor Field said that unfortunately a large portion of the minority business process is generated from the state level and one of the things we might work on is some changes at that level.

Upon inquiry of Ms. Minnie Jones about if there were any bids from minority contractors, Mr. Miall stated that only two bids were received from minority contractors. When Ms. Jones stated that the bids should have been awarded on an area-by-area basis, Mr. Miall responded that the lower bidder was in fact the lowest bidder in each of the areas.

Mr. Clarence Benton felt this privatization effort could have been a golden opportunity for the minority businesses in the area.

Mr. H.K. Edgerton felt that there was serious problems with the MB Plan. He felt the minority businesses that the approximately 20 people who attended the pre-bid conference might have been intimidated and, as a result, only two businesses bid on the project.

Councilman Worley noted that Council is in a clash between two admirable goals - one is to see the MB Program succeed, and the other is to have more minority participation in our contracts. However, at the same time, Council has to consider what is the most economical way to handle services to keep the cost down for all taxpayers. He agreed that we need to find ways to improve the system.

Vice-Mayor Field felt that education of the process is essential. She urged the MB Commission to revive it's education program.

Councilman Cloninger stated that he was now satisfied that we would not be compromising the quality of the basic services we provide by privatizing this work. He suggested staff follow-up with the people who attended the pre-bid conference to find out why there were only two minority businesses who bid the project.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 96-68. This motion was seconded by Councilman Sellers and carried on a 6-1 vote, with Councilman Skalski voting "no."

Councilman Hay suggested Councilman Skalski, liaison to the MB Commission, discuss Council's concerns with the commission members and see if they have any suggestions on how we can improve the process.

City Manager Westbrook said that he will also ask the Minority Business Coordinator to look into other issues brought up today - in particular, the MB Plan being more friendly for service oriented businesses and education.

RESOLUTION BOOK NO. 23 - PAGE 166

V. CONSENT:

Ordinances:

A. ORDINANCE NO. 2278 - BUDGET AMENDMENT REGARDING SISTER CITY VISIT

Summary: The City has received a grant of $500 from the Robert J. and Eunice J. Wagner Foundation to be used toward a Sister City Visit to San Cristobal de las Casas, Mexico. This action will appropriate that grant to the Sister City budget.

ORDINANCE BOOK NO. 15 - PAGE 362

B. ORDINANCE NO. 2279 - ORDINANCE AMENDING CHAPTER 3 (ANIMALS) OF THE CODE OF ORDINANCES TO PROHIBIT CERTAIN ANIMALS, WILD ANIMALS AND LIVESTOCK FROM COMMUNITY EVENTS AND FESTIVALS

Summary: The purpose of this ordinance amendment is to prohibit animals from community events and festivals unless allowed as part of an event.

Community events and festivals serve a tremendous need for the community by showcasing our heritage and cultural diversity. These events traditionally draw large numbers of participants usually in a very concentrated area. Problems have occurred during these events by participants bringing in animals and reptiles which have become a nuisance to other participants and event organizers. In an effort to control this problem, the Parks and Recreation Department wishes to amend Chapter 3 of the Code of Ordinances, Section 3-27, Subsection (E). This amendment shall not apply to guide dogs trained to provide assistance to sight or hearing impaired persons. Furthermore, this ordinance would allow festival organizers to permit other animals which may be part of the festival program.

The staff of the Parks and Recreation Department recommends amending Chapter 3 of the Code of Ordinances, Section 3-27, Subsection (E), to prohibit animals from community events and festivals.

ORDINANCE BOOK NO. 15 - PAGE 364

C. ORDINANCE NO. 2280 - ORDINANCE AMENDING ARTICLE V OF CHAPTER 19 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (PARKING METER ZONES AND PARKING PROHIBITION)

Summary: The City of Asheville currently has established parking meter zones in various locations at various times, and it would be beneficial to establish one list of those zones in the Code of Ordinances. In addition, the City allows on-street parking in areas that are not metered, but are restricted by signs or traffic conditions. Enforcement of these unmetered spaces will be simplified by requiring all legal spaces in the Central Business District to be designated.

This recommendation has been reviewed by the Revenue Manager, the Traffic Engineer, the Superintendent of Parking Services and the City Attorney's Office.

ORDINANCE BOOK NO. 15 - PAGE 266

D. ORDINANCE NO. 2281 - ORDINANCE REGULATING CONSUMPTION AND POSSESSION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE ON CITY STREETS AND SIDEWALKS ON CITY PROPERTY AND DURING COMMUNITY EVENTS AND FESTIVALS

Summary: This ordinance would establish regulations regarding the consumption and possession of malt beverages and/or unfortified wine on City streets and sidewalks, on City property and during community events and festivals.

In 1995, the North Carolina General Assembly authorized cities to adopt a local ordinance to regulate or prohibit the consumption of malt beverages and/or unfortified wine or the possession of open containers of malt beverages and/or unfortified wine on public streets and to regulate or prohibit the possession of malt beverages and/or unfortified wine on public streets, alleys or parking lots which are temporarily

closed to regular traffic for special events. The North Carolina League of Municipalities prepared a model ordinance for cities in North Carolina to consider. The Asheville Police Department and the Asheville Parks and Recreation Department have reviewed the model ordinance prepared by the League and recommend adoption of that model, with certain modifications for community events and festivals and for outdoor dining areas which are permitted by the City of Asheville.

The ordinance would prohibit consumption of malt beverages and/or unfortified wine on public streets and on property which is owned, occupied or controlled by the City, but excluding specific locations for which an ABC permit has been issued and only according to the requirements to the ABC permit. In addition, the attached ordinance would prohibit the possession of open containers of malt beverages and/or unfortified wine on the public streets and on property owned, occupied or controlled by the City, excluding again specific locations for which an ABC permit has been issued.

The ordinance would allow possession and consumption of malt beverages and/or unfortified wine at community events and festivals whenever the City Council adopts a resolution making specific provisions for that. In a separate resolution, the Asheville Police Department and the Asheville Parks and Recreation Department are setting forth provisions for consumption and possession during the 1996 Bele Chere Festival.

Finally, the ordinance would allow possession and consumption in outdoor dining areas which have been issued a City of Asheville permit as the Code of Ordinances now provides. Those permits would be temporarily suspended during community events and festivals, unless the City Council provides otherwise by separate resolution.

A violation of the ordinance constitutes a misdemeanor. Enforcement would be by the Asheville Police Department.

The Asheville Police Department and the Asheville Parks and Recreation Department recommend adoption of the ordinance.

ORDINANCE BOOK NO. 15 - PAGE 370

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they would not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Hay.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and final reading.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF (1) THE FORMAL MEETING HELD ON APRIL 23, 1996, AND CONTINUED UNTIL APRIL 30, 1996; (2) THE COMMUNITY MEETING HELD ON APRIL 30, 1996; AND (3) THE REGULAR WORKSESSION HELD ON MAY 7, 1996

B. RESOLUTION NO. 96-69 - RESOLUTION ADOPTING THE FAIR HOUSING PLAN

Summary: The Fair Housing Plan identifies certain impediments to fair housing and sets forth affirmative steps to overcome impediments. This Fair Housing Plan fulfills the HUD requirements for CDBG and HOME. Adoption of the Plan will demonstrate the City's commitment and support of a housing policy that integrates fair housing opportunity for all people.

RESOLUTION BOOK NO. 23 - PAGE 167

C. **RESOLUTION NO. 96-70 - RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS & RECREATION TO EXECUTE FESTIVAL AGREEMENTS FOR FESTIVALS THAT ARE SPONSORED OR CO-SPONSORED BY THE PARKS & RECREATION DEPARTMENT**

Summary: The Parks and Recreation Department currently sponsors or co-sponsors approximately 17 festivals and special events on an annual basis. These events include, but are not limited to, Bele Chere, July 4th, First Night, and Goombay. There are a number of agreements for entertainment and sponsorships which are currently signed by the City Manager. This resolution would allow the Parks and Recreation Director the authority to execute these agreements and has also been approved by the City Manager.

The Parks and Recreation Department requests that the Director be authorized to execute agreements related to conducting, sponsoring. promoting, and assisting with community festivals and special events which are included in the responsibilities of the department.

RESOLUTION BOOK NO. 23 - PAGE 168

D. **RESOLUTION NO. 96-71 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 4A TO HILLIARD AVENUE PARTNERSHIP**

Summary: Disposal Parcel 4A is a CS Commercial Service lot near the corner of Hilliard and South French Broad Avenues, comprising 16,852 square feet. The bid from Hilliard Avenue Partnership for Disposal Parcel 4A includes the proposal to incorporate the lot into the property currently owned by Hilliard Avenue Partnership where the offices of Waddell Sluder Adams & Co. and Maryland Casualty Co. are located. The development proposal consists of landscaping and maintaining the lot consistent with the currently owned property. Hilliard Avenue Partnership consists of Robert B. Gelder Jr. and Julia Adams Slipher.

The bid of Hilliard Avenue Partnership in the amount of $67,400 for the purchase of Disposal Parcel 4A in the East Riverside Redevelopment Project is not less than the established minimum price of $67,400.

The bid process was properly followed and the City received no upset bids.

RESOLUTION BOOK NO. 23 - PAGE 169

E. **RESOLUTION NO. 96-72 - RESOLUTION SETTING A PUBLIC HEARING ON MAY 28, 1996, REGARDING A REQUEST OF TCI CABLEVISION OF ASHEVILLE FOR AN ANNUAL ADJUSTMENT TO ITS RATE SCHEDULE FOR THE BASIC SERVICE TIER**

Summary: This resolution will set a public hearing for May 28, 1996, to review the request of TCI Cablevision of Asheville for an annual adjustment to its rate for the basic service tier.

The Cable Television Consumer Protection Competition Act of 1992 authorized local franchising authorities, such as the City of Asheville, to regulate the basic service tier of its local franchisee for cable television services (TCI Cablevision of Asheville - hereinafter "TCI"). The City Council of the City of Asheville has previously reviewed rate schedules of TCI for the basic service tier.

Regulations recently adopted by the Federal Communications Commission (hereinafter "FCC") allow TCI to make annual adjustments to its basic service tier and to its expanded service tier. Those FCC regulations only allow the City of Asheville to review the rates for the basic service tier and only allow a review of the rates proposed for the basic service tier to determine whether or not TCI has followed the rate formula set by the FCC.

The FCC regulations further provide that the proposed rates will become effective 90 days after the filing of the annual rate adjustment by TCI with the City of Asheville. TCI filed its request on March 4, 1996, and the 90-day time period expires on June 2, 1996.

TCI Cablevision of Asheville provided the City of Asheville with a notice of its intent that its rate for the basic service tier would change effective June 1, 1996. The rate for basic service tier will increase from $9.95 a month to $10.46 a month.

The City Council has previously provided an opportunity for comment from the public and TCI by scheduling a public hearing on requests for rate increases. May 28, 1996 is the next available date for a public hearing on this matter.

RESOLUTION BOOK NO. 23 - PAGE 170

F. RESOLUTION NO. 96-73 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE A GRANT APPLICATION WITH THE N.C. DEPT. OF CRIME CONTROL & PUBLIC SAFETY IN SUPPORT OF A PUBLIC NUISANCE ABATEMENT TEAM

Summary: The Police Department is seeking federal support for a project designed to assist the public with solving persistent crime problems and quality of life issues within neighborhoods of the City of Asheville. The Public Nuisance Abatement Team project is designed to deny criminals the use of real property as a base of operations and to secure owner cooperation in removing criminal elements from offending properties. The proposed project will target owners of properties that engage in assignation, prostitution, gambling, illegal sell or possession of alcohol/controlled substances/obscene or lewd material and where repeated actions of breeches of the peace are committed. Federal support is requested for 75% of the project costs. The project budget is $73,000 beginning July 1, 1996, and continuing through June 30, 1997. A local matching contribution of $18,250 is required by the grantee.

RESOLUTION BOOK NO. 23 - PAGE 171

G. MOTION SETTING A PUBLIC HEARING ON MAY 28, 1996, TO REZONE SEVEN PARCELS IN THE ROCK HILL PLACE AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL

H. **MOTION SETTING A PUBLIC HEARING ON MAY 28, 1996, TO AMEND THE ZONING ORDINANCE TO REDUCE THE FRONT SETBACK REQUIREMENTS FOR NON-RESIDENTIAL USES IN THE R-1 SINGLE FAMILY RESIDENTIAL DISTRICT**

I. **MOTION AUTHORIZING THE MAYOR TO SEND A LETTER TO THE CHAIRMAN OF THE ABC COMMISSION TO REQUEST THAT THERE BE NO EXTENSION OF PREMISES FOR ABC OUTLETS DURING THE 1996 BELE CHERE FESTIVAL WEEKEND**

Summary: The Parks & Recreation Department and the Bele Chere Board are recommending that a letter be sent to the ABC Commission requesting that they deny an extension of premises permit to businesses who have existing ABC permits. It is the intention of the Parks & Recreation Department and the Bele Chere Board to not deny any business who has an existing permit or a temporary permit to do business within the confines of the premises. However, problems have occurred in the past when an extension of their existing permit has been granted which results in businesses removing their windows to sell beer and wine on the street and sidewalk. - Also, see Item J Summary below.

J. **RESOLUTION NO. 96-74 - RESOLUTION MAKING PROVISION FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ANNUAL BELE CHERE FESTIVAL**

Summary: This resolution will regulate the consumption and possession of malt beverages and/or unfortified wine at the 1996 Bele Chere Festival. The letter to the ABC Commission requests that there be no extension of premises for ABC outlets during the 1996 Bele Chere Festival weekend.

The Bele Chere Board of Directors last year approved performing an alcohol assessment for the 1995 Bele Chere Festival. The results of this report indicate that the Bele Chere staff and volunteers are committed to responsible alcohol management during the Festival. Several concerns were made that include the lack of written alcohol policies and procedures and local businesses within the perimeter of the Festival selling cans and bottles of beer in an irresponsible and sometimes illegal manner. According to reports given by the Asheville Police Department and ALE, a total of 151 arrests or citations were given by both agencies during Bele Chere which, for the majority, were alcohol related.

In an effort to address concerns established from the Home Team report, the Parks and Recreation Department and the Bele Chere Board of Directors are recommending certain actions be taken. First, we recommend that City Council write the ABC Commission and request that the ABC Commission not grant extension of premises for ABC outlets during the 1996 Bele Chere Festival. This extension allows businesses to sell off premises and outside their establishment. We feel that this would help alleviate some of the problems caused by businesses removing their windows and selling beer directly from their premises and into the street. Secondly, the Parks and Recreation Department and the Bele Chere Board of Directors request the adoption of a resolution which would restrict the possession and consumption of alcohol to only certain areas of the Bele Chere Festival area. Restricting possession and consumption to certain areas will further promote the establishment of areas for family-oriented activities. The resolution also establishes a time period after which alcohol sales will stop during the Festival and only allows possession and consumption from Bele Chere Festival containers. The Parks and Recreation Department and the Bele Chere

Board of Directors will also be developing alcohol policies and procedures which will govern the Bele Chere operations.

The Parks and Recreation Department, the Bele Chere Board of Directors and the Police Department recommend authorizing the Mayor to send a letter to the ABC Commission and recommend adoption of the resolution regarding alcohol possession and consumption at the 1996 Bele Chere Festival.

RESOLUTION BOOK NO. 23 - PAGE 172

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved to approve the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Cloninger and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission on May 1, 1996:

River Bend Business Park on Swannanoa River Road

Mr. Mike Matteson, Urban Planner, said that at the Commission meeting held on May 1, 1996, the Commission the Planning and Zoning Commission voted unanimously to recommend approval of Phase II of the River Bend Business Park.

Phase II of River Bend Business Park consists of the renovation of approximately 150,000 square feet of the former Sayles Bleachery industrial building. The renovated space will be used as storage/warehouse space.

Construction of new loading docks is included in the renovation. The project site, consisting of approximately 79 acres, is located on Swannanoa River Road and is zoned Heavy Industrial and Light Industrial. Existing parking and access roads will serve the renovated building. Following their review of the site plans, the Planning and Zoning Commission unanimously recommended approval with the following conditions:

1. Receipt of letters confirming availability of water and sewer services;
2. Receipt of letter from Fire Marshal confirming availability of fire protection;
3. Provision of required number of handicap accessible parking spaces; and
4. Work with City Traffic Engineer to assure adequate and safe access to the business park.

The Planning and Zoning Commission has recommended approval of the group development with the four (4) conditions identified above. The Planning and Development staff recommends approval of this group development with the conditions.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

Country Club Condominiums on Dover Street

Mr. Mike Matteson, Urban Planner, said that Country Club Condominiums will consist of two 14 unit buildings on a 1.78 acre site on Dover Street. This group development was previously approved by City Council. The plans have since been revised to include one additional floor for each of the two buildings. The new proposal would include five levels of condominiums over a garage level. The number of condominium units has not changed and the plans continue to meet all of the development standards for the R-3 zoning district, as well as the group development requirements. The Planning & Development staff has received no public comment on this revised group development.

At the Commission meeting held on May 1, 1996, the Commission voted unanimously to approve the revised plans. The Planning & Development staff recommended approval of the revised plans with no conditions.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

B. UDO MAPPING

Councilman Cloninger asked that the City Manager begin authorizing staff to assist the UDO Committee in successfully advertising the upcoming UDO mapping process.

City Manager Westbrook said that steps are already being made toward that goal and since only advertising that is legally required is in the budget, staff may need to come back to Council for a small appropriation for additional advertising.

Councilman Skalski felt that five community meetings are not nearly enough to get the word out to the community concerning the UDO mapping process.

Planning & Development Director Julia Cogburn said that she would relay Councilman Skalski's concern to the UDO Committee and also to Ms. Robin Westbrook (who will be working on the advertising aspect of the mapping).

C. RIVER MASTER PLAN FUNDING

Councilman Cloninger said that the City (through the Outside Agency Review Committee) has been requested to appropriate $11,500 as a portion of the cost in developing a master plan for the river. Because other agencies are also being asked to contribute, it has been requested that some type of approval (prior to adoption of the upcoming budget) be given quickly so that others will see that the City is supportive of the Plan and they should be supportive too. He did say that the Outside Agency Review Committee does recommend this allocation.

Upon inquiry of Vice-Mayor Field, City Manager Westbrook said that the $11,500 could be funded this year out of contingency or fund balance if the Council wishes.

It was the consensus of Council to place this topic on the next worksession agenda.

D. SUMMER YOUTH PROGRAM

Upon inquiry of Mr. H.K. Edgerton, City Manager Westbrook explained the $100,000 funding of the 1996 Summer Youth Program.

E. FAIR HOUSING PLAN - JIM BARRETT

Mr. Jim Barrett, City representative on the Fair Housing Commission, thanked Council for the adoption of the Fair Housing Plan for our community.

F. RALPH BISHOP

Mr. Ralph Bishop said there had been a cover-up regarding a fire at his house in the early 1970's.

G. CLAIMS

The following claims were received by the City of Asheville during the week of April 19-24, 1996: Martha Ellis (Water), Yoko Nakamura (Fire), Claudette Batson (Streets), Floyd Hill (Sanitation) and Greg Stevens (Water).

The following claims were received during the week of April 25-May 2, 1996: Dixie Sain (Civic Center), Debbie Rogers (Water), Sarah Cohen (Streets), State of N.C. (Fire) and Reashandea Walters (Police).

The following claims were received during the week of May 3-9, 1996: Elizabeth Palmer (Water), Wade Lee Messer (Water), State Employees Credit Union (Street), and Carrie Bowles (Water).

These claims will be referred to Asheville Claims Corporation for investigation.

H. CLOSED SESSION

At 7:37 p.m., Councilman Sellers moved to go into closed session, as authorized by G.S. 143-318.11 (a) (3), in order to preserve the attorney-client privilege. This motion was seconded by Councilman Worley and carried unanimously.

At 8:10 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:10 p.m.

Magdalen Bouleware
CITY CLERK

MAYOR

Tuesday - May 21, 1996 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CLOSED SESSION

At 3:00 p.m., Vice-Mayor Field moved to go into closed session, as authorized by G.S. 143-318.11 (a) (3), in order to preserve the attorney-client privilege. This motion was seconded by Councilman Worley and carried unanimously.

At 3:40 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

GLENDALE AVENUE BRIDGE REPLACEMENT PROJECT

Mr. Mark Combs, Public Works Director, said that TGS Engineers have completed plans for replacement of the Glendale Avenue Bridge across the Swannanoa River. The plans have been submitted to the appropriate agencies in the Federal and State governments for approval. Section 26a of the Tennessee Valley Authority ("TVA") requires that any construction along or over waterways in the Tennessee Valley jurisdiction be approved by the Tennessee Valley Authority.

The TVA has reviewed and approved the Glendale Avenue Bridge replacement plans. The TVA has also prepared an approval document setting forth the terms and conditions of their approval. This document needs to be executed on behalf of the City. The conditions require that any changes in the plans be approved by the TVA: That, if in the future, any adverse effects upon navigation, flood control, or public land reservations are created by the bridge, that the bridge shall e altered or removed to eliminate the adverse effects; that should the City begin but not complete the bridge project that any and all of the uncompleted work be removed and the area restored to its former condition; that all land disturbing activities be accomplished in accordance with best management policies as defined in Section 20-8 of the Clean Water Act; and that the approval of the plans by TVA be valid for the period of one year, after which time, re-approval must be obtained before any construction is started. The approval also places no liability on the TVA and frees them of any obligation or duty to the City or any third party for damages to property or personal injuries arising out of or connected with construction, operation or maintenance of the bridge.

The plan approval document has been reviewed by Public Works, the City Attorney's Office and Risk Management. Each Department recommends the plan approval document, with revisions to the indemnification clause included in the original document on page 2, paragraph 7, be approved. Language being deleted reads "... and to indemnify and save harmless TVA and the United States from any and all claims by other persons arising out of any such damage."

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

CIVIC CENTER HVAC SYSTEM REPAIR

City Manager Westbrook said that due to the deteriorating conditions of the HVAC system at the Civic Center, staff requests Council approval of a contract for repair to that system.

The Civic Center Director is in the process of improving operations in the climate control system within that facility. The Civic Center HVAC system has deteriorated to the point that an engineering firm was hired to ascertain corrective measures for the existing air conditioning system and make recommendations to solve mechanical operating problems with recommended cost analysis. Deficiencies were found by the engineering firm, resulting in recommendations to correct the system problems and the provision of a detailed cost breakdown. Due to the immediate need of the repairs to the HVAC system and due to contracted rental of the facility, repair costs were obtained and an acceptable proposal was finalized for the corrective work.

A budget amendment, in the amount of $67,000 to budget investment earnings and appropriate remaining funds is required.

Staff recommends approval of the HVAC system repair costs and proposed contract for the Civic Center by Carolina Environmental Systems Inc. in the amount of $119,640.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

BUDGET WORKSESSION FOLLOW-UP ITEMS

CITYWORKS

Ms. Robin Westbrook, Water Efficiency Coordinator, said that additional information was requested by City Council concerning the amount of money spent by the City of Asheville on legal and other advertisements placed in the newspaper along with cost estimates associated with increasing the size and/or frequency of the current CityWorks advertisements.

When the idea for CityWorks was originally conceived, legal advertising was used to offset the cost and to make information easier for customers to find in the newspaper. The unreliability of the size of legal ads made it difficult to forecast the size ad that would be needed each week. The plan was to publish a 3/4 page ad each week and a full page ad on the last week of the month. The ad was often enlarged to include all legal ads that week, thus increasing the cost of the program.

In July 1995, a total of $40,000 was appropriated through the budget for newspaper ads, water bill inserts, and newspaper tabloids. Of this $40,000, approximately $20,000 has been used for newspaper ads in the Asheville Citizen-Times and Mountain X-Press. Currently, $16,500 has been spent on CityWorks advertisements this fiscal year.

In the past eight months, the City has spent $16,495 on classified advertising, $44,190 on legal advertising, and $13,563 on CityWorks with the Asheville Citizen-Times. The City has spent a total of $3,025 with the Mountain X-Press for a total of $77,273 on advertising with these two publications. Small amounts of advertising dollars have also been spent with other publications. Job announcements should continue to be placed in the classified section of the newspaper; therefore, the total

amount of money that the City is spending on legal advertising and CityWorks in both publications is $60,778.

It is the recommendation of staff that the City publish a 1/4 page ad every week and a full page ad on the last week of the month. This will address the problem of frequency that we now experience. Legal ads could be summarized in this full page ad if they are over two pages in length and included if they are under two pages. The cost of this advertising will be $60,683. Some legal advertising will still need to be advertised in the legal section of the paper and will be an additional cost. All of these advertising dollars will also be spent with the Asheville Citizen-Times.

Vice-Mayor Field felt that what the City did with CityWorks prior to July 1, 1995, was extremely effective.

Vice-Mayor Field hoped that there was some way we could place CityWorks in the Citizen-Times at the same place each week. Ms. Westbrook said that prior to July 1, 1995, the Citizen-Times was willing to do that because of the amount of space the City was buying. However, since we are recommending less this time, they were not willing to commit that space.

When Councilman Worley asked why the job announcements should remain in the classified section, Ms. Westbrook said that people are used to looking for jobs in that section, however, they can still be included in CityWorks.

There was some discussion about where the almost $20,000 difference would come from. City Manager Westbrook said that we would have to appropriate the difference from fund balance because he wouldn't recommend reducing anything in the balanced budget he recently presented to Council.

Discussion then surrounded the fund balance and the amount the City should keep in it.

Councilman Cloninger felt that Council needed to let staff know the amount they wanted to spend on CityWorks and then let staff determine the best and most effective and efficient ways to use it.

City Manager Westbrook asked for some direction from Council next week so that any outstanding issues can be resolved and he can present a balanced budget to the Council prior to the public hearing on June 11.

STAFFING IN PLANNING DEPARTMENT

Ms. Julia Cogburn, Planning & Development Director, reviewed the Planning Services Division's staffing and current work program projects.

She said that with the current work program assigned to them, and if the vacancies get filled, she felt that her staffing is adequate.

When Councilman Skalski asked what happened to the other Senior Planner position vacated by Patty Joyce, Ms. Cogburn said that she felt the Planning Department would be better served with a Planner I position. When Councilman Skalski asked about the cost of a Senior Planner, Ms. Cogburn said that it would be approximately $40,000 with benefits.

City Manager Westbrook said that he and Ms. Cogburn are currently looking at a small reorganization in the Planning Department.

Upon inquiry of Councilman Skalski, Ms. Cogburn said that CityWorks would be a great avenue in keeping the community informed of the Unified Development Ordinance and its mapping.

MUNICIPAL BUILDING RENOVATIONS

Mr. Lyle Willis, Contract Administrator, said that City Council had requested additional information regarding renovations to the Municipal Building.

Over the years, the Municipal Building has housed the City of Asheville's Fire Department administration, including Engine 15, Squad 1 and Ladder 11, and the Police Department. However, renovations to the building have not kept pace with the growing needs of the community and the federal, state and local regulations required for safe building occupancy.

In June 1994, the architectural/engineering firm ENG/6A of Asheville was chosen by the RFP process as the firm to provide architectural/engineering services and to recommend occupancy solutions for the Municipal Building, which resulted in a feasibility study for the Municipal Building and its operational functions. This study evaluated the present condition of the building, examined the suitability of meeting the needs of its users, and explored options in regard to its continued use.

The following recommendations - Options 5 and 6 - constitute the two most favorable options in the feasibility study:

In Option 5, the following recommendations were made and the cost summary provided:

A. Move the Police Department to another location which is large enough to accommodate their needs in order to allow them to operate effectively and efficiently.

B. Renovate the Municipal Building to serve the Fire Department more efficiently and safely. Relocate the Fire Prevention Division (currently in the Public Works Building) to the Municipal Building. Renovations to the building should include addressing the life-safety and fire protection issues, ADA accessibility and upgrading of the plumbing, heating and cooling, and electrical systems.

C. Provide additional parking near the building. Construction of a multi-level parking deck may be needed in order to provide adequate parking.

Full implementation of the recommendations listed above (in 1994 dollars):

A.	New Police Department building	$8,200,000
B.	Renovations of Municipal Building	$2,888,000*
C.	New multi-level parking deck	$3,696,000
	Total:	$14,784,000

*Includes ADA, life safety, building code and fire protection corrections

Option 5 was determined at the time not to be the highest and best use of the Municipal Building, and Option 6 was explored for a more cost-effective approach. Option 6 was completed in May 1996.

Option 6 addresses the permanent continuing use of the Municipal Building by the Fire Department administration (including Engine 15, Squad 1 and Ladder 11), and the Police Department, with renovations that would result in a first-class facility equal to the fine reputations of the Fire Department and Police Department, and would serve to enhance the efficiency and effectiveness of its occupants.

Option 6 includes the total renovation of the Municipal Building and the revitalization of the exterior of the building through added covered entrances and landscaping design at both the Court Plaza and Eagle Street entrances. Additionally, the implementation of renovations called for in Option 6 would increase the usable square footage of the building from 77,000 square feet to 85,000 square feet.

The cost summary for the construction and renovations called for in Option 6 are as follows:

Construction/renovations	$7,700,000
Relocation of City Schools maintenance department	300,000
Furnishings	250,000
Contingency	750,000
Total	$9,000,000

Preliminary design concepts have been submitted for review by the City Manager, the Police Chief and the Fire Chief, and their approval has been received.

City staff recommends approval through budgetary process of Option 6 as outlined in the feasibility study and its supplements, conveying the recommendation to continue to house the Fire administration and Police Department within the Municipal Building; and to give direction for the City Manager to proceed with negotiations for a contract with the architect firm ENG/6A to develop design/construction drawings, a more detailed cost analysis, and a time line for budget funding.

Mr. Bob Niedzwicki, architect with ENG/6A, briefed Council on Option 6 by using drawings. He then talked about the interior and exterior of the Municipal Building.

A sketch of the building showed that the Fire Department's main entrance and bay doors would be located at the south end of the building facing Eagle Street (across the street from the YMI Cultural Center and the Mt. Zion Missionary Baptist Church). The sketch also showed that the main entrance for the Police Department would be on the north end of the building.

Vice-Mayor Field was very much concerned about the noise from the fire engine sirens (approximately 2,000 per year) onto Eagle Street. She stressed the noise would interrupt the church along with the YMI Cultural Center activities. She stated that the Eagle/Market Street area is trying to revitalize and having a garage in its front door would not be appropriate.

Vice-Mayor Field asked if the Eagle/Market Street Development Corporation has had an opportunity to comment or if there was been any other community involvement into this renovation project. City Manager Westbrook responded that at this point, this is only a plan and once staff receives direction from Council, the plan will be shown to the Eagle/Market Street community, the YMI Cultural Center, the Eagle/Market

Street Development Corporation, the Bele Chere Board of Directors, Pack Plaza, Pack Place, Asheville Downtown Association, and others, for input.

Councilman Cloninger said that after the community gets involved, they might want something different and better than what the City is proposing.

When Councilman Hay asked if perhaps the Fire Department and the Police Department entrances could be switched, Mr. Niedzwicki said that the moving of the areas can be made to work, however, the solution is not as well organized.

Upon inquiry of Vice-Mayor Field, Mr. Niedzwicki said that their estimate to renovate the building is approximately $75-90.00 per square foot.

At the request of Councilman Hay, City Manager Westbrook offered to arrange for a tour of the Municipal Building.

Mayor Martin gave some history of the building and stressed that staff needed some direction on this project and move forward.

City Manager Westbrook said that he needed some direction from Council at this point in order to start a financing plan.

Mr. H.K. Edgerton stated that the Eagle/Market Street community is interested in getting rid of the criminal element in that area. Having the Police Department's main entrance on the south side of the building facing Eagle Street might send out a positive signal to the community.

It was the consensus of Council to (1) leave the money in the Capital Improvement Plan for the Municipal Building; (2) take a tour of the Building; (3) have staff talk to the community about the pros and cons of the concept; and (4) have the City Manager bring back additional information to Council within 60 days.

W.T. WEAVER BOULEVARD SIDEWALK

Mr. Mark Combs, Public Works Director, said that City Council directed staff to provide more detailed information on potential construction of a sidewalk on the north side of W. T. Weaver Boulevard from Broadway to Merrimon Avenue.

Consideration for sidewalks on W. T. Weaver have been researched and under consideration for approximately six years. The major reasons for the impetus to construct a sidewalk on this street are:

1) Endorsement by, and growth of UNC-A and need for pedestrian access to campus;
2) Widening of Broadway and subsequent construction of sidewalks and potential construction of greenway on this street;
3) Continuity of sidewalk system from downtown areas (Broadway) to North Asheville pedestrian system (UNC-A, Merrimon and Murdock);
4) Bicycle connection of Downtown hub to/from North Asheville.

There are no major obstacles to construction of this sidewalk from Broadway to within 300 yards of Merrimon Avenue. UNC-A has agreed to

provide all necessary easements for stormwater drainage across this property. However, the final 300-yard section presents significant engineering challenges and cost potential. Preliminary estimate for construction is approximately $200,000.

Based on City Council's prioritization and available funds, staff recommends construction of W. T. Weaver in two phases over a two-year period as follows:

1) Fiscal Year 1996-97 - Phase I construction from Broadway Avenue to University Heights (entrance to UNC-A)
   Estimated cost: $70,000 - $80,000
2) Fiscal Year 1997-98 - Phase II construction from University Heights to Merrimon Avenue
   Estimated cost: $120,000 - $130,000

Mr. Combs then presented the following recommended sidewalk construction projects for Fiscal Year 1996-97:

Location	Length	Estimated Cost
Fairview Road Phase II	3,200 ft.	$70,000
Biltmore Avenue Phase II (west side)	4,500 ft.	50,000
Lexington Avenue Phase II	1,060 ft.	50,000
Ira B. Jones School (Kimberly Avenue)	1,300 ft.	35,000
Haywood (O.Henry to Civic Center)	460 ft.	10,000
Vermont (both sides)	2,328 ft.	30,000
W.T. Weaver Boulevard Phase I	1,500 ft.	70,000
	Total	$315,000

It was the consensus of Council to have staff proceed with the recommended sidewalk construction projects outlined above for Fiscal Year 1996-97.

STREET RATING SYSTEM

Ms. Suzanne Molloy, Assistant Director of Public Works, said that at the request of City Council, the Public Works Department has prepared a tentative list of streets to be paved in the 1996-97 fiscal year, a status report on the pavement condition inventory ("PCI") system, and an overview of paving management needs and goals for the Department.

In the past, the Public Works Department has used an assortment of PCI systems to evaluate the rating of City streets. The objective of each system was to rate road conditions in an non-biased manner, determine appropriate remedial or preventive measures, and to determine a priority list of improvement projects. In practice, the PCI and respective rating system for roads has not been an effective tool due to non-user friendliness of specific chosen systems and inconsistencies in the actual ratings due to qualifications of the assessors and "averaging" of an entire street. Furthermore, the effects of severe circumstances such as unpredictable harsh weather or inadequate stormwater drainage systems may accelerate deterioration of a street. Thus, the PCI rating system has been used only as a verification method for street prioritization based upon actual field observation, traffic load, and customer complaints.

The tentative list of streets to be paved in the 1996-97 fiscal year has been determined by field staff based upon the above methodologies. At present, staff is in the process of selecting a more proactive systematic approach to manage paving within the City. In cooperation with the Engineering Department, the Public Works Department is evaluating systems for user-friendliness to include: methods of implementing consistent rating inspections; database inventories that can interface with GIS and analysis systems for engineering planning; data input fields for cost estimating, improvements; and a systematic approach to better manage customer complaints. In the next fiscal year, the goal of the Department is to set up an effective pavement management system which can be used for long-term planning, budgeting, and better customer service.

Pavement management is a continuous process of field examination. Due to the nature of pavement management, customer service, and status of the existing system, the Public Works Department may have cause to alter the tentative list of streets to be paved. Staff is notified on a daily basis of streets that may have been overlooked or quickly deteriorated.

Under these circumstances, staff performs an inspection and makes appropriate changes to resurfacing priorities. Some streets may be added to the list without alteration to scheduled projects as long as sufficient funds remain in the budget; however, funding may require that the list be modified to incorporate higher priority streets.

Staff recommends that the prioritization of projects for the 1996-97 fiscal year be at the discretion of the Public Works and Engineering Departments. Meanwhile, the Public Works and Engineering Departments will work collaboratively to redesign the pavement management system and develop a priority list of projects for the next two to three years with recommendations to the City Manager.

The tentative listing of streets to be paved in 1996-97 include: Druid Drive, Balm Grove Avenue, Balm Grove Place, School Road, Wamboldt Alley, Mitchell Avenue, Nevada Avenue, Birch Lane, Birch Court, Cedar Street, Millers Lane, Mulberry Court, Summit Street, Brook Terrace, Chunn's View Drive, Gladstone Road, Mountain Brook Road, Rolling Terrace, Rolling View Terrace, Shawnee Trail, Darcy Lane, Ellenwood Drive, Knoll Alley, Larchmont Road, Linden Street, Red Oak Road and Valle Vista - for a total cost of $290,400.

DRUG FREE WORKPLACE CERTIFICATION FOR CONTRACTORS

City Attorney Slawter said that this resolution establishes a policy requiring City construction and service contractors to provide a drug-free workplace in the performance of any City contract.

Mayor Martin recently requested that the City investigate a policy which is currently in place in the City of Charlotte requiring City construction and service contractors to provide a drug-free workplace in the performance of any City contract. The Charlotte policy was informally adopted by motion of the City Council on September 11, 1995. He said that Charlotte's policy is required to be inserted in their RFPs and Invitations to Bid as well as in their contracts. This resolution would establish a similar policy for the City of Asheville.

As does the Charlotte policy, our draft policy would apply only to construction and service contracts, as opposed to purchase contracts. He believed that the thought behind this distinction is that

construction and service contractors are creating the product which the City is buying, while purchasing contractors generally are not.

There is no specific authority in the law to impose such a requirement upon contractors. For construction contracts, we have a statutory obligation to award bids to the lowest responsible bidder, taking into consideration quality, performance and the time specified in the bids for the performance of the contract. There is no similar requirement that service contracts be awarded to the lowest responsible bidder. There is also no statutory or case law definition of "lowest responsible bidder" to shed light upon whether failure of a prospective contractor to provide the certification that would be requested under the policy would make that contractor be other than the lowest responsible bidder. There is, therefore, some risk of challenge to such a policy as it relates to construction contracts, but he would not think that a court would have much sympathy for a prospective contractor who refused to provide such a certification.

The Charlotte policy discussed, but took no action, related to drug testing. We would recommend that any policy adopted by the Asheville City Council do the same.

The Charlotte policy was adopted on September 11, 1995, with implementation beginning January 1, 1996. The delay of almost four months was in order to give the City time to have "proper communications with the City's vendors and contractors, and to put into place procedures the City would need to do to implement the policy."

The requirements of the Charlotte policy are similar to those set forth in the federal Drug-Free Workplace Act, which is an education and awareness program. It does not require drug testing, and does not provide for any enforcement mechanism.

The City enters into many informal contracts, especially related to services. The inclusion of the language required by the proposed policy may make such contracts rather cumbersome, but he was sure that the policy can be implemented if that is Council's wish.

Mayor Martin and the Asheville/Buncombe Drug Commission recommend adoption of the policy.

City Attorney Slawter then answered questions from Council relating to why the Charlotte policy does not require drug testing

Vice-Mayor Field stated that even though she totally supported ways to reduce the drug problem, she felt this will only be adding another layer of bureaucracy in the City. She noted that even though we will be asking contractors to certify they have a drug-free workplace on an honor system, there is no enforcement mechanism. And because of that, she felt we might get into an area of having to hire someone to see that the contractors are making a good faith effort to comply with the policy. She felt this policy would not reduce the drug problems, but just cause more paperwork. She felt we are only making it harder for contractors to do business with the City, not making it easier.

City Manager Westbrook said that the City would not have to hire anyone - that this will be handled through normal purchasing procedures.

Mayor Martin felt this was a good first step towards the City's commitment to become drug free. He stated that the City needed to try new programs to achieve that goal.

Councilman Worley felt that even though there is no enforcement mechanism in place, we will be sending a message to the honorable people in our society that this is what is expected of them.

Councilman Cloninger also agreed this was a good first step. He also felt that if an incident happens on a job where a contractor did make that certification and it is determined that his employee was on drugs, that would strengthen our hand to not do business with them anymore

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

RIVER MASTER PLAN FUNDING

Ms. Cindy Batson, Internal Auditor, said the RiverLink Inc. is requesting the City fund support of the development of an Urban Riverfront Master Plan in the amount of $11,250.

RiverLink has submitted a request to the City Council Outside Agency Review Committee for $11,250 as the City's contribution to the funding of the Urban Riverfront Master Plan. The Master Plan study area will encompass the land between the I-240 Smokey Park Bridge and the intersection of Lyman, Depot and Riverside Drive.

The total cost of the Master Plan is $60,000 that will be used entirely for professional fees. In addition to the $11,250 requested from the City for the Plan, funding is also requested from TVA ($15,000), Advantage West ($22,500) and Buncombe County ($11,250).

The Outside Agency Committee supports this funding and recommends to City Council that the request be funded in the current year from the General Fund contingency.

Councilman Cloninger suggested that Mr. H.K. Edgerton keep in contract with Ms. Karen Cragnolin regarding any ramifications that the Riverfront Master Plan may have on any plans his committee is working on.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

At 6:05 p.m., Mayor Martin announced a ten minute break.

COMMENTS FROM REV. RALPH SEXTON

Rev. Ralph Sexton read a prepared statement stating that the Warner Brothers filming in downtown Asheville on Monday, May 20, 1996, "was a flagrant rejection of family values and an overt promotion of the gay agenda in our community." He stated that they would oppose this type of event in the future.

Councilmen Cloninger and Sellers felt that City Council should have at least been consulted about this filming - regardless of the content of the movie.

BOARDS AND COMMISSIONS

It was the consensus of Council to take appropriate actions at the next Council meeting to: (1) appoint Arlis Queen to the WNC Air Pollution Control Board; (2) appoint Robert Turner to the Asheville Regional Airport Authority; (3) appoint Rose Rose and Allen Roderick as

Alternates to the Board of Adjustment; (4) appoint John Ingersoll and Joe Chandler to the Citizens/Police Advisory Committee; (5) appoint Robert Swan and reappoint Tom Muncy to the Asheville Area Civic Center Commission; (6) appoint Beth Lazer to the Asheville Downtown Commission; (7) appoint Fred Eggerton and Jody Kuhne to the Asheville-Buncombe Historic Resources Commission; and (8) amend the Civic Center Commission membership to add the position of Director of Convention and Marketing Sales at the Chamber of Commerce as an ex-officio member.

BUDGET LOOSE ENDS

City Manager Westbrook presented Council with other budget concerns (totaling $500,000) still needing to be settled prior to the public hearing on June 11 - CJIS funding; City/County ID Bureau; City arborist; and the formula regarding the Sheriff's Department in the Water Agreement.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:00 p.m.

Magdalen Pearson
CITY CLERK

MAYOR

Tuesday - May 28, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman M. Charles Cloninger

INVOCATION

Mayor Martin gave the invocation.

CLOSED SESSION

At 5:02 p.m., Vice-Mayor Field moved to go into closed session, as authorized by G.S. 143.318.11 (a) (3), to consult with the City Attorney in order to preserve the attorney-client privilege. This motion was seconded by Councilman Worley and carried unanimously.

At 5:46 p.m., Vice-Mayor Field moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REQUEST OF TCI CABLEVISION OF ASHEVILLE FOR AN ANNUAL ADJUSTMENT TO ITS RATE SCHEDULE FOR THE BASIC SERVICE TIER

Mayor Martin opened the public hearing at 5:46 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Patsy Meldrum, Assistant City Attorney, said that this resolution will approve an annual adjustment to the rate schedule of TCI Cablevision of Asheville for the basic service tier.

On March 4, 1996, the City of Asheville received notice from TCI Southeast, Inc., on behalf of TCI Cablevision of Asheville, that it intends to increase basic service tier rates, and other rates, charged to cable television subscribers on or after June 1, 1996, as part of an annual rate adjustment permitted by regulations of the Federal Communications Commission (hereinafter "FCC").

The FCC regulations now authorize an annual rate adjustment by the cable television company.

The FCC regulations authorize local franchising authorities, such as the City of Asheville, to review the annual rate filings of cable television franchises.

The City of Asheville has 90 days from the date of the filing to review it, which 90 period will expire on June 2, 1996.

City staff has reviewed the annual filing submitted to the City of Asheville for TCI Cablevision of Asheville and finds that the calculations submitted follow the formula set forth by the FCC.

The rate for basic service tier will increase from $9.95 a month to $10.46 a month.

Ms. Meldrum said that City Council has a choice of actions to take. One is that Council can approve the rate request. The other is that Council can take no action on the rate request. If Council takes no action, the rate request goes into effect automatically under the FCC regulations. There is then a 12-month window that if the City studies the calculations again and finds that there is some error in the calculations, a refund could be issued. However, the Finance Department has reviewed the calculations and they have found that they appear to be within the FCC formula. On that basis, she recommended to either take no action, thereby letting the rates go into effect around June 1, 1996, or to adopt the resolution which would find that the rate request submitted appears to comply with the FCC formula.

She then briefed Council on the transfer process stating that TCI and Brenmor are still in the process of working out a transfer of the assets for a California franchise. One of the conditions of the transfer was the pursuit of the renewal of the franchise agreement. The City asked the renewal be concluded by June 30, 1996. Due to the holdup in the transfer of the assets, that part was being delayed somewhat. The City had sent a Request for Proposals to TCI and Brenmor in late March and asked for a response by May 1. We received a response from them indicating that they hoped to have something to the City by June 30, 1996. We then sent another letter to them reminding them of the June 30 date for completion of the process and asked for a response by June 1.

In addition to the renewal process, another aspect of our condition of approval of the transfer was a franchise fee audit. After Council approved the franchise fee audit being done by our consultants, we have been trying to get information from TCI regarding the calculations for those franchise fees. Our franchise agreement currently allows us to inspect their records with regard to those fees and we can send a designated representative to do that. We've chosen Rice, Williams. There has been some difficulty in getting information out of their Birmingham, Alabama, office where their general ledgers are kept. I have advised Mr. Martin about that difficulty today.

Councilman Worley reiterated that as long as TCI complies with the rate calculations under the FCC regulations, this Council has no power to deny the rate increase. Staff has looked at those calculations and has found them to be correct. Basically, City Council has no ability to do anything other than approve the rate increase, either by affirmatively doing so, or by taking no action.

Ms. Meldrum gave Council information on what would happen if the City had no rate review process. That being that the rates would be set, not based on the FCC formula. So, at least by having this process in tact, where they have to come and provide us with the FCC forms showing the calculations, they must abide by the FCC formula. Without us having rate regulatory authority, they would not have to do that.

Mr. Dan Martin, General Manager of TCI Cablevision of Asheville, said that he has just been made aware of the problems with the corporate

offices in Birmingham and he will look into it. He spoke in support of the annual rate increase.

Mr. Martin tried to respond to questions from Councilman Skalski about how much cable rates since 1990.

Upon inquiry of Mr. H.K. Edgerton about TCI Cablevision filming City Council meetings, Mayor Martin said that item will be looked at in the franchise renewal negotiation.

When Mr. Ralph Bishop asked why City Council was even holding a public hearing since there was nothing they could do to deny the rate increase, Mayor Martin felt that the public hearing is at least a way to have full disclosure of the issue.

Ms. Leni Sitnick encouraged Council to act swiftly on the franchise renewal negotiations. She said that she had talked with Mr. Martin who said that when the franchise was renegotiated, the local office would televise City Council meetings and also would put a crawl of the agenda on Channel 10 several days before the Tuesday meeting.

Councilman Hay noted that our consultants are aware that this is a high priority for City Council.

Mayor Martin closed the public hearing at 6:06 p.m.

Councilman Worley moved to take no action on the rate increase. This motion was seconded by Councilman Hay and carried unanimously.

B. PUBLIC HEARING TO REZONE SEVEN PARCELS IN THE ROCK HILL PLACE AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL

ORDINANCE NO. 2282 - ORDINANCE TO REZONE SEVEN PARCELS IN THE ROCK HILL PLACE AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL

Mayor Martin opened the public hearing at 6:07 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Erin McLoughlin, Urban Planner, said that the Planning staff has received a request to rezone seven parcels, approximately 10 acres, off of Rock Hill Road from R-3 Medium Density Residential to R-5 Residential. The properties are located north of Rock Hill Road, bordering Rock Hill Place. R-3 is a medium density residential district which allows 16 units per acre. R-5 is a medium density residential district with allows 10 units per acre and also allows manufactured homes on single family lots. The current land use is predominately manufactured homes. The 2010 Plan calls for low density residential. One person voiced their opposition to this rezoning at the May 1, 1996, Planning & Zoning Commission meeting.

At the Planning & Zoning Commission meeting, the Commission voted unanimously to approve the rezoning request. The Planning staff recommended approval of the rezoning also.

Mr. Lloyd Moser, 93 Rock Hill Road, said that someone has blocked the road known as Rock Hill Circle. He said that if the road were open,

it would help with the traffic problems in the area. Mayor Martin asked City staff to investigate Mr. Moser's concern to see if the road has been legally closed.

Upon inquiry of Vice-Mayor Field, City Attorney Slawter said that this rezoning is not a spot zoning.

Mayor Martin closed the public hearing at 6:13 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Skalski moved for the adoption of Ordinance No. 2282. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2282 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 372

C. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO REDUCE THE FRONT SETBACK REQUIREMENT FOR NON-RESIDENTIAL USES IN THE R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

ORDINANCE NO. 2283 - ORDINANCE TO AMEND THE ZONING ORDINANCE TO REDUCE THE FRONT SETBACK REQUIREMENT FOR NON-RESIDENTIAL USES IN THE R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 6:14 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that this proposed wording amendment would reduce the front building setback requirement for non-residential uses in the R-1 zoning district.

This wording amendment came about as a result of a project review for a church addition in an R-1 zoning district. Currently, the front setback requirement for non-residential uses in the R-1 zoning district is 100 feet. In looking at this issue, staff felt that this setback requirement is excessive and have drafted two versions of a wording amendment which would reduce the requirement. The first version reduced the setback to 70 feet (twice the setback for residential uses). The second version reduced the setback to 35 feet which is the same as the setback for residential uses. The latter version would allow for more visual continuity by maintaining a consistent building line.

At the Planning & Zoning Commission meeting on May 1, 1996, the Commission voted to approve the second version of the wording amendment which would reduce the setback to 35 feet.

Mayor Martin closed the public hearing at 6:16 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2283, which would reduce the setback to 35 feet. This motion was seconded by Councilman Sellers.

On a roll call vote of 6-0, Ordinance No. 2283 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 274

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 96-75 - RESOLUTION ESTABLISHING A POLICY REQUIRING CITY CONSTRUCTION AND SERVICE CONTRACTORS TO PROVIDE A DRUG-FREE WORKPLACE IN THE PERFORMANCE OF ANY CITY CONTRACT

City Attorney Slawter said that this resolution establishes a policy requiring City construction and service contractors to provide a drug-free workplace in the performance of any City contract.

Mayor Martin recently requested that the City investigate a policy which is currently in place in the City of Charlotte requiring City construction and service contractors to provide a drug-free workplace in the performance of any City contract. The Charlotte policy was informally adopted by motion of the City Council on September 11, 1995. He said that Charlotte's policy is required to be inserted in their RFPs and Invitations to Bid as well as in their contracts. This resolution would establish a similar policy for the City of Asheville.

As does the Charlotte policy, our draft policy would apply only to construction and service contracts, as opposed to purchase contracts. He believed that the thought behind this distinction is that construction and service contractors are creating the product which the City is buying, while purchasing contractors generally are not.

There is no specific authority in the law to impose such a requirement upon contractors. For construction contracts, we have a statutory obligation to award bids to the lowest responsible bidder, taking into consideration quality, performance and the time specified in the bids for the performance of the contract. There is no similar requirement that service contracts be awarded to the lowest responsible bidder. There is also no statutory or case law definition of "lowest responsible bidder" to shed light upon whether failure of a prospective contractor to provide the certification that would be requested under the policy would make that contractor be other than the lowest responsible bidder. There is, therefore, some risk of challenge to such a policy as it relates to construction contracts, but he would not think that a court would have much sympathy for a prospective contractor who refused to provide such a certification.

The Charlotte policy discussed, but took no action, related to drug testing. We would recommend that any policy adopted by the Asheville City Council do the same.

The Charlotte policy was adopted on September 11, 1995, with implementation beginning January 1, 1996. The delay of almost four months was in order to give the City time to have "proper communications with the City's vendors and contractors, and to put into place procedures the City would need to do to implement the policy." He recommended that our effective date of our policy be October 1, 1996.

The requirements of the Charlotte policy are similar to those set forth in the federal Drug-Free Workplace Act, which is an education and

awareness program. It does not require drug testing, and does not provide for any enforcement mechanism.

The City enters into many informal contracts, especially related to services. The inclusion of the language required by the proposed policy may make such contracts rather cumbersome, but he was sure that the policy can be implemented if that is Council's wish.

Mayor Martin and the Asheville/Buncombe Drug Commission recommend adoption of the policy.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Skalski moved for the adoption of Resolution No. 96-75. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 179

V. CONSENT:

Ordinances:

A. ORDINANCE NO. 2284 - BUDGET AMENDMENT RELATIVE TO REPAIRS OF THE HVAC SYSTEM AT THE CIVIC CENTER

Summary: This budget amendment, in the amount of $67,000, is to budget investment earnings and appropriate remaining funds required to complete the HVAC repairs at the Civic Center.

Upon inquiry of Councilman Worley, City Manager Westbrook said that the additional funds are in the current Civic Center budget.

ORDINANCE BOOK NO. 15 - PAGE 376

B. ORDINANCE NO. 2285 - BUDGET AMENDMENT RELATIVE TO URBAN RIVERFRONT MASTER PLAN

Summary: This budget amendment, in the amount of $11,250, is to provide support to the development of an Urban Riverfront Master Plan.

ORDINANCE BOOK NO. 15 - PAGE 378

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they would not be read.

Councilman Hay moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, the Ordinance Consent Agenda passed on its first and final reading.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 14, 1996, AND THE WORKSESSION HELD ON MAY 21, 1996

B. RESOLUTION NO. 96-76- RESOLUTION APPOINTING A MEMBER TO THE WNC REGIONAL AIR POLLUTION CONTROL BOARD

Summary: The term of Shirley Turner expired on March 20, 1996. This resolution will appoint Arlis Queen to serve a six year term, term to expire March 20, 2002, or until his successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 182

C. RESOLUTION NO. 96-77 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE REGIONAL AIRPORT AUTHORITY

Summary: The term of Stephen Woody expires on June 30, 1996. This resolution will appoint Bob Turner to serve a four year term, term to begin on July 1, 1996, and expire June 30, 2000, or until his successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 183

D. RESOLUTION NO. 96-78 - RESOLUTION AMENDING RESOLUTION NO. 93-45 WHICH ESTABLISHED THE BELE CHERE COMMISSION

Summary: City Council has determined that it would be in the best interest of the City of Asheville to have Council appointments serve three year terms (instead of two year terms), beginning with the 1995 appointments. This resolution will make that change.

The terms of Marvin Chambers and Rocky Fulp expired on August 17, 1995. This resolution will also reappoint Mr. Chambers and Mr. Fulp to serve three year terms, respectfully, terms to expire June 30, 1998, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 194

E. RESOLUTION NO. 96-79 - RESOLUTION AMENDING THE RESOLUTION ESTABLISHING THE CITIZENS/POLICE ADVISORY COMMITTEE AND APPOINTING MEMBERS

Summary: City Council has determined that it would be in the best interest of the City of Asheville to have Council appointments serve three year terms (instead of two year terms), beginning with the 1996 appointments. This resolution will make that change.

The terms of Henry Southworth, Dick Shahan, Lonnie Blair and Janice Van Dine expired on May 1, 1996. This resolution will reappoint Lonnie Blair and Janice Van Dine to serve a three year term, respectfully. Also, this action will appoint John Ingersoll and Joe Chandler to serve three year terms, respectfully. All terms will expire on June 30, 1999, or until their successors have been appointed and qualified.

In order to keep all terms with the same vacancy date, the resolution will change Dick Rice's term to now expire June 30, 1999.

RESOLUTION BOOK NO. 23 - PAGE 185

F. RESOLUTION NO. 96-80 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: The terms of Richard Bowman, Tom Muncy and Richard Schumacher expire on June 30, 1996. This resolution will reappoint Richard Bowman and Tom Muncy to serve an additional three year terms respectfully, terms to expire on June 30, 1999, or until their successors have been appointed. This action will also appoint Robert

Swan to serve a three year term. Mr. Swan's term will begin on July 1, 1996, and expire on June 30, 1999, or until his successors has been appointed.

RESOLUTION BOOK NO. 23 - PAGE 187

G. RESOLUTION NO. 96-81 - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE CRIME STOPPERS BOARD OF DIRECTORS

Summary: The terms of Steve Curtis and Grant Osborne expire on June 30, 1996. This resolution will reappoint Mr. Curtis and Mr. Osborne to each serve an additional three year term, terms to expire June 30, 1999, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 188

H. RESOLUTION NO. 96-82 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: The term of Brady Blackburn as a member and Chairman of the Downtown Commission expired on December 31, 1995. This resolution will appoint Beth Lazer as a member of the Downtown Commission, to serve a two year term, term to expire December 31, 1997, or until her successor has been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 189

I. RESOLUTION NO. 96-83 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY DRUG COMMISSION

Summary: The term of Willie McDaniel expires on July 1, 1996. This resolution will appoint John Hayes to serve a three year term, term to begin on July 2, 1996, and expire July 1, 1999, or until his successor is appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 190

J. RESOLUTION NO. 96-84 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: The terms of Raymond Spells and Carleton Collins expire on July 1, 1996. This resolution will appoint Jody Kuhne and Fred Eggerton to serve three year terms respectfully, terms to begin on July 2, 1996, and expire July 1, 1999, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 191

K. RESOLUTION NO. 96-85 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Summary: The terms of William Estes, Lewis Isaac and James Grant expire on June 30, 1996. This resolution will reappoint William Estes and Lewis Isaac to each serve an additional three year term, terms to expire June 30, 1999, or until their successors have been appointed. This action will also appoint Charles Bullman to serve a three year term, term to begin July 1, 1996, and expire on June 30, 1999, or until his successor has been appointed.

RESOLUTION BOOK NO. 23 - PAGE 192

L. RESOLUTION NO. 96-86 - RESOLUTION APPOINTING ALTERNATES TO THE BOARD OF ADJUSTMENT

Summary: R. Dennis Weaver has resigned as an alternate, leaving an expired term. Diane Westmoreland has also resigned as an alternate. This resolution will appoint Rose Rose and Allen Roderick to each serve as an Alternate to the Board of Adjustment, each term expiring January 21, 1998, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 193

M. RESOLUTION NO. 96-87 - RESOLUTION ENDORSING APPOINTMENTS TO THE OPPORTUNITY CORPORATION OF MADISON-BUNCOMBE COUNTIES

Summary: The Opportunity Corporation has recently revised their by-laws and as a result of those changes, public appointments may now be made by individuals as opposed to the full governing body.

Ms. Doris Hill Brewer was appointed in December of 1994 by the full Council. However, since that time the Corporation has restructured its Board members' terms in order to provide for a regular three-year rotation.

The Opportunity Corporation has asked that the Mayor reappoint Ms. Brewer to serve on their Board for a three year term, term to expire in March of 1999. They have also asked that Ms. Cathy Pollock, from A-B Technical College, be the other City representative to serve a one year term, term to expire in March of 1997.

RESOLUTION BOOK NO. 23 - PAGE 194

N. RESOLUTION NO. 96-88 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A PLAN APPROVAL DOCUMENT BETWEEN THE TENNESSEE VALUE AUTHORITY AND THE CITY OF ASHEVILLE FOR REPLACEMENT OF THE GLENDALE AVENUE BRIDGE OVER THE SWANNANOA RIVER

Summary: TGS Engineers have completed plans for replacement of the Glendale Avenue Bridge across the Swannanoa River. The plans have been submitted to the appropriate agencies in the Federal and State governments for approval. Section 26a of the Tennessee Valley Authority ("TVA") requires that any construction along or over waterways in the Tennessee Valley jurisdiction be approved by the Tennessee Valley Authority.

The TVA has reviewed and approved the Glendale Avenue Bridge replacement plans. The TVA has also prepared an approval document setting forth the terms and conditions of their approval. This document needs to be executed on behalf of the City. The conditions require that any changes in the plans be approved by the TVA: That, if in the future, any adverse effects upon navigation, flood control, or public land reservations are created by the bridge, that the bridge shall e altered or removed to eliminate the adverse effects; that should the City begin but not complete the bridge project that any and all of the uncompleted work be removed and the area restored to its former condition; that all land disturbing activities be accomplished in accordance with best management policies as defined in Section 20-8 of the Clean Water Act; and that the approval of the plans by TVA be valid for the period of one year, after which time, re-approval must be obtained before any construction is started. The approval also places no liability on the TVA and frees them of any obligation or duty to the City or any third party for damages to property or personal injuries

arising out of or connected with construction, operation or maintenance of the bridge.

The plan approval document has been reviewed by Public Works, the City Attorney's Office and Risk Management. Each Department recommends the plan approval document, with revisions to the indemnification clause included in the original document on page 2, paragraph 7, be approved. Language being deleted reads "... and to indemnify and save harmless TVA and the United States from any and all claims by other persons arising out of any such damage."

RESOLUTION BOOK NO. 23 - PAGE 195

O. **RESOLUTION NO. 96-89 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CAROLINA ENVIRONMENTAL SYSTEMS INC. FOR REPAIRS TO THE HVAC SYSTEM AT THE CIVIC CENTER.**

Summary: Due to the deteriorating conditions of the HVAC system at the Civic Center, staff requests Council approval of a contract for repair to that system.

The Civic Center Director is in the process of improving operations in the climate control system within that facility. The Civic Center HVAC system has deteriorated to the point that an engineering firm was hired to ascertain corrective measures for the existing air conditioning system and make recommendations to solve mechanical operating problems with recommended cost analysis. Deficiencies were found by the engineering firm, resulting in recommendations to correct the system problems and the provision of a detailed cost breakdown. Due to the immediate need of the repairs to the HVAC system and due to contracted rental of the facility, repair costs were obtained and an acceptable proposal was finalized for the corrective work.

Staff recommends approval of the HVAC system repair costs and proposed contract for the Civic Center by Carolina Environmental Systems Inc. in the amount of $119,640.

RESOLUTION BOOK NO. 23 - PAGE 196

P. **RESOLUTION NO. 96-90- RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH RIVERLINK INC. RELATIVE TO FUNDING OF THE URBAN RIVERFRONT MASTER PLAN**

Summary: RiverLink has submitted a request to the City Council Outside Agency Committee for $11,250 as the City's contribution to the funding of the Urban Riverfront Master Plan. The City Council desires to fund this request in the current fiscal year.

City of Asheville procedures regarding outside agency funding require a written agreement between the City and RiverLink, Inc. outlining the use of the funds.

RESOLUTION BOOK NO. 23 - PAGE 197

Q. **MOTION SETTING A PUBLIC HEARING ON JUNE 11, 1996, RELATIVE TO ADOPTION OF THE 1996-97 ANNUAL OPERATING BUDGET**

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Worley moved to approve the Resolutions & Motions Consent Agenda. This motion was seconded by Vice-Mayor Field and carried unanimously.

VI. OTHER BUSINESS:

A. METER SERVICES DIVISION

The following individuals made several comments and opposing statements regarding the City of Asheville's outsourcing or privatizing the Meter Services Division. Some comments were: affected employees should have been made aware that bids were being solicited to privatize their division prior to ads being placed in the newspaper; privatizing the division will have negative affects for the customers, employees and other departments of the City; the division is currently responsible for ensuring that over 40,000 meters are registering properly for the City and the customers; meters are cash registers for this water system and they register the water revenue - does the City really want an untrained contractor handling our water revenues in the millions of dollars?; employees will suffer because of the inability of management to run a cost-competitive division; even though efficiency is the greatest challenge to any government, the City is here to serve the public; the Meter Services Division fills in for other divisions; affected employees are uncertain on how they can enhance their jobs; in 1974 there were 28 employees in this division and over 22 years, the system has grown but the number of employees decreased to 11; the employees feel that no one cares about their needs since they have been in a condemned building for 7-8 years and have recently been told that if they got the bid, the City would renovate the building for them; there are professional people currently in the division representing 167 years of experience; the affected employees are dedicated to their job as shown by their continuing education relating to their jobs; the Meter Services Division provides a lot of different services for the Customer Service Representatives, i.e., meter reads, meter leaks, and meter testing; there would be a negative impact on the Customer Services Division to outsource this division; if the division is outsourced, the company may have a little experience in water, but their employees won't have the experience of our employees, they won't be familiar with our water system and where our meters are, or how our lines are run underground; our current employees are valuable; there are discrepancies with what the employees are being told and what top management is being told; employees are carrying heavier workloads creating a lack of direction and low morale; temporary situations have become additional duties; in 1991 the Meter Services Division had 18 employees and now they have 11 with more meters to take care of than ever before; all current 11 employees completed for their jobs through Civil Service for their positions and have been required to continue their education each year; the current employees are an investment to the City of Asheville; the employees of the City are also taxpayers and citizens so they care about what happens to the City; cost-savings on paper usually has its price - the price is working short staffed, low employee morale, and the inability to do the job in the ways that they know they need to be done properly and safely; employees in Meter Services have been told that they can submit a bid to compete for their own job, yet the City Accountant has told them that in order for them to bid competitively, they must eliminate three positions; job studies have indicated that the City must increase it's front line positions and cut management; management positions and salaries are increasing; privatization appears

at first glance as though it may save the City money - but in later years after the City's resources are sold, employees gone, and all your equipment gone, the prices go up; and, the City will be met with strict user opposition from the community and neighborhoods.

Mr. Randy Rhodes, employee in the Meter Services Division
Ms. Leni Sitnick
Mr. Larry Angel, employee in the Meter Services Division
Ms. Diane Mechanic, employee in the Water Resources Department
Ms. Sherry Angel, employee in the Collections Division
Mr. Peter Rauschenplat, employee in the Water Maintenance Division
Mr. Richard Nantelle

Mayor Martin said that the Asheville-Buncombe Water Authority will be reviewing this matter prior to any City Council involvement. He also said that it is the City Council's policy to find efficiencies of operation wherever they can and Outsourcing is a part of that. Advertising for bids does not mean that anyone will lose their job, it just means that Council will be taking a hard look at every department within the City and made decisions based on what is best for the City and its taxpayers. He assured the employees that all considerations will be looked at before anything final is done.

Councilman Worley agreed with Mayor Martin and stated that "this is not any sort of a done deal, it's an exploration." He said that if we can get it done substantially cheaper by privatizing it, then City Council would certainly want to look at that. There are policies that have been very well followed about dealing with City employees who are affected by privatization matters. Those will be looked at very closely as well.

City Manager Westbrook said that the study will be completed and reviewed with the Water Authority. They will make their inquiry, along with the Water Resources Director, and make a recommendation to City Council about whether to privatize or not.

When Vice-Mayor Field asked which condemned building the Meter Services Division is in, Ms. Mechanic said that the building was condemned five years ago. She said it was full of rats with paint falling off the ceiling and the ceiling falling in. She said that Meter Services complained about this building about two years ago and they were moved out of the building into "no building at all." They moved them to Water Maintenance and gave the 11 employees a 5x7 office and they still had to keep their equipment in the condemned building - and that is the building that they are still working out of. She felt that this was the "reward" that the employees received when they spoke out about their working conditions.

Vice-Mayor Field also said that the City does follow guidelines for outsourcing. The guidelines, established by the Institute of Government, are very sensitive to employee needs and requirements. She said employees being able to move into other necessary jobs is an important part of whether or not Council would make a decision to outsource.

Councilman Skalski thanked the employees for bringing this matter to Council's attention. He encouraged the employees and top management keep the lines of communication open.

B. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop reminded all of Council that they took an Oath of Office. He noted that nothing in that Oath suggests that the Institute of Government in Chapel Hill should govern how the City is run.

C. CLAIMS

The following claims were received by the City of Asheville during the week of May 10-16, 1996: Ed Metts (Water), Russ and Debra Pouch (Water) and Verity Creekmore (Streets).

These claims will be referred to Asheville Claims Corporation for investigation.

CLOSED SESSION

At 6:56 p.m., Vice-Mayor Field moved to go into closed session, as authorized by G.S. 143.318.11 (a) (3), to consult with the City Attorney in order to preserve the attorney-client privilege. This motion was seconded by Councilman Worley and carried unanimously.

At 7:37 p.m., Vice-Mayor Field moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:37 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - June 4, 1996 - 2:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CLOSED SESSION

At 2:10 p.m., Councilman Sellers moved to go into closed session, as authorized by G.S. 143.318.11 (a) (3), to consult with the City Attorney in order to preserve the attorney-client privilege. This motion was seconded by Councilman Worley and carried unanimously.

At 2:50 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

WNC YOUTH SPORTS COMPLEX

Mr. Victor Trantham, member of the WNC Youth Sports Complex Committee, briefed Council on the Committee's mission statement which is to build a year-round, multiple use youth sports complex in Asheville to host youth sports tournaments, to provide needed indoor facilities to improve the recreational opportunities for local youth and to enhance tourism development and economic growth in the region.

Mr. Trantham then said the project is to be developed as a quadruple of gymnasiums around a central management/maintenance/ concessions hub on a site in Asheville, incorporating a landscaped parking area. Each of the four gymnasium facilities will be designed to include a full-sized basketball court which will also accommodate two regulation volleyball courts and serve as an indoor soccer arena. Each gymnasium in the complex will have bleacher seating on one side and provide team dressing and restroom facilities.

The primary function of the Youth Sports Complex is to accommodate basketball, volleyball, and indoor soccer. Other sports and related activities that can adopt to the facilities will have access on a space available basis. These activities may include, but are not limited to the following: wrestling, gymnastics, martial arts, and cheerleading.

The primary function of the complex will be to provide a year-round facility to attract regional, age-group tournaments in basketball, volleyball and indoor soccer. It also will be for local youth and open division tournaments and legal play in basketball, volleyball, indoor soccer and related sports activities that can be adopted to the facility. On a space available basis, the facilities would be available for training camps for private sports clubs, high school and college teams. On available weekdays and evenings, the complex could be used for other related activities on a fee or rental basis. Subject to scheduled activities, the complex will provide free use for non-profit organizations with a demonstrated need as determined by the bylaws of the Board of Directors.

The complex will be developed and owned by a local non-profit corporation, seeking a tax exempt status with the IRS, 501 (c) (3). Once the facility is built, the corporation will manage the operations

of the facility (or contract for the management). It is proposed that a staff will be hired or a contract arranged for staffing a manager, a promoter, and the required maintenance personnel (creating eight new jobs). The funds required to staff and manage the facility will be generated by the proceeds from tournament fees, ticket sales, user fees, rental and concessions.

The UNC Youth Sports Complex Steering Committee represents a cross-section of interests and experience. The committee has expanded to incorporate a broad spectrum of members, interested and committed to the development of this unique and beneficial project. It is the intent of the steering committee to research and formulate a Board of Directors for the non-profit organization which will be formed to implement this project.

Cost of the project is estimated at $3 Million and money will be raised through foundations and corporate donations.

Letters of support have been received from the Asheville Downtown Commission, the Director of the Civic Center and the City's Parks & Recreation Director. The Committee is asking for Council's support of this project.

Upon inquiry of Councilman Sellers where the location of the project would be, Mr. Trantham said that the property would consist of 10-12 acres and since is has not been bought yet, he would only say that it is within their mission statement to keep it with the City limits of Asheville.

Vice-Mayor Field moved to authorize the Mayor to sign a letter of support of the WNC Youth Sports Complex. This motion was seconded by Councilman Worley and carried unanimously.

BUDGET AMENDMENTS:

Funding for the Sanitation Division Brush Collection

Mr. Mark Combs, Director of Public Works said that the Sanitation Division strives to provide timely and efficient brush collection to the residents. The amount of brush currently placed at curbside and waiting collection is more than normal for this time of the year. The severe winter left residents with many trees and branches down and additional clean up work necessary. The residents are now beginning their clean up efforts and the results are an increase of brush at curbside.

The Sanitation Division estimates that it will take approximately four Saturdays to collect the overflow of brush. At that time, the Division expects to resume and meet the regular schedule. The cost of four additional Saturdays of pick up is expected to be approximately $20,000.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

Street Division Overtime and Materials Line Items

Mr. Mark Combs, Director of Public Works, said that the heavy rains, flooding, hurricanes and substantial snow falls experienced this winter have left the Street Division's budget with inadequate funding in the Overtime and Materials line items. The funding in these line items was based on previous years of mild winters and the severe winter this year has exceeded the budgeted amounts. Funding is needed in these line

items to recover these additional costs so that the Division might complete projects that are scheduled for this fiscal year. It will also provide some funding to repair damages to the infrastructure by the adverse weather conditions.

Funds are requested in the amounts of $100,000 for overtime and $20,000 for materials to provide sufficient funds to complete project and repair work in this fiscal year.

Audit/Budget Director Bob Wurst said that after this budget amendment, the General Fund contingency will have a balance of approximately $3,000.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

BUDGET FOLLOW-UP ITEMS

Recycling Request for Bids

Mr. Mark Combs, Director of Public Works, said that staff was instructed to develop a request for bids to provide residential curbside recycling services to City of Asheville garbage customers for Fiscal Year 1996-1997. Request for Bids were solicited and received April 23, 1996. The original bids were based on a curbside collection frequency of once per week.

Subsequent to receipt of the original bids, staff elected to explore other cost savings potential to include contracted employee/education and reduction of recycling service frequency to every other week. This logic was based on the quantity and types of recycled materials, speed of implementation, and fundamental service at the most efficient cost.

Amended bids were then solicited from the original bidders.

He reviewed the following request for bids on a weekly pickup, noting that ABC Recycling withdrew their bid on May 31, 1996:

	Customer/City Share	Total Cost
Browning-Ferris Industries (curbside sort)	$1.45	$659,520
Curbside Management Inc. (curbside sort)	$ .97	$558,720
Hyder Waste (blue bag system)	$ .835	$480,960
Waste Management of Asheville (curbside sort)	$ .975	$561,600

He then reviewed the following request for bids on a bi-weekly pickup:

	Customer/City Share	Total Cost
Browning-Ferris Industries (price includes bins)	$.85	$469,440
Curbside Management Inc. (price includes bins)	$.745	$429,120
Hyder Waste (customer provides bags)	$.835	$480,960
Waste Management of Asheville (price includes bins)	$.85	$489,600

He reviewed the merits of a weekly vs. bi-weekly service stating that the bi-weekly collection would be more cost efficient; you would have more recyclables per stop (which will save on fuel and pollutants); there would be less neighborhood traffic; you are able to develop integration with brush routing; and recyclables do not rot, smell as bad as garbage, and you can store them longer with fewer problems.

Staff felt that the bi-weekly collection would be more cost effective, require less equipment and personnel. It would be easier to expand versus decrease in serve intervals and recyclables non-putrescible and easier to store.

Based upon all information received, staff recommends awarding the bid to the lowest bi-weekly bidder - Curbside Management Inc., in the amount of $429,120. It is a local company with over 6,000 customers, has a good reputation for providing contract services, they are experienced in recycling collection field; and they will use Asheville Waste Paper as the MRF.

Mr. Combs said that because of problems associated with the Water Department billing system, they recommend a starting date of January 1, 1997, for the entire City. That six months will give the City time to initiate a comprehensive education program.

Mr. Dave Johnson, owner of Curbside Management, responded to questions from Council as they related to lost or stolen bins. He said that they would provide each household with one free bin. Replacement or additional bins will cost approximately $3-5.00. He felt that the container system has shown to be far more acceptable regarding participation.

Councilman Cloninger felt the Council needed to look seriously at not only is the most acceptable bid to the City, but which will be accepted and used by the public. He felt the bin system is more user friendly. He said that a January 1 implementation date would give staff more time to educate the residents.

Mr. Mike Griffin, General Manager of Hyder Waste, said that they have used both system in their seven years of operation and their studies have shown that participation rates are higher with blue bags. Even though they were given less than 24 hours notice in which to submit an alternate bid for bi-weekly pickup, he still felt that a weekly collection program will prove to be cheaper than a bi-weekly program.

Vice-Mayor Field stated several concerns regarding the bi-weekly collection. One being the initial program implementation date was to be September, 1996, and now implementation is scheduled for January, 1997. Also, the Buncombe County Solid Waste Committee, which she has been a member of for five years, has worked long and hard trying to find ways that the City and the Council could collectively work. A lot of

research went into the County's collection system - which is by blue bag weekly.

Mr. Jan Davis, Vice-Chair of the Buncombe County Solid Waste Committee, stated that there is a great deal of concern on the City's part, on two different methods being used to pick up recyclables. He noted that the bin system is good; however; the City and County need to be consistent for doing business in the future.

Upon inquiry of Vice-Mayor Field, Mr. Combs said that the City has budgeted $60,000 for the education program, which will begin in the fall.

Mr. Griffin asked that consideration be given for bi-weekly bids to go out with more time within which to respond. He said that because of the short turn-around time required for the alternate bid, he was unable to submit an appropriate bid - thus resulting in a weekly and bi-weekly price being the same - 84 cents. Assistant Director of Public Works Suzanne Molloy stated that the other three bidders responded very quickly to the alternate bid request also noting that each bidder was contacted by phone about the alternate bid at least a week before the deadline.

Upon inquiry of Vice-Mayor Field regarding the $187,880 current budget, Mr. Wurst said that the estimated bid is $177,994, which is $9,886 less than the budgeted amount.

When Vice-Mayor Field questioned the savings from bi-weekly pickup compared with to weekly pickup. Mr. Wurst said that the amount included in the budget was based on phasing rather than the frequency of pickups and that the estimates in the budget were done before bids were received, which amounts were based on the estimated costs presented to Council at their retreat in January.

Mr. John Thornton, Garbage Disposal Systems Inc., supported the Hyder Waste bid. He felt that bi-weekly programs are inferior.

Vice-Mayor Field felt the reduced service (that is, bi-weekly pickup) was not justified based on the amount of savings between the weekly and bi-weekly bids. She requested a better comparison of the cost of weekly vs. bi-weekly pickups.

Mr. Combs responded to questions from Councilman Skalski regarding curb-sorting vs. blue bagging.

Vice-Mayor Field wondered if the residents would be willing to pay $1.00 instead of $.75 per month to have a weekly pick-up. City Manager Westbrook said that he would run some figures and report back to Council at their next meeting.

It was the consensus of Council to review this issue further at the scheduled public hearing on the budget next week.

CityWorks

Ms. Robin Westbrook, Water Efficiency Coordinator, said that in July 1995, a total of $40,000 was appropriated through the budget for newspaper ads, water bill inserts, and newspaper tabloids. Of this $40,000, approximately $20,000 has been used for newspaper ads in the Asheville Citizen-Times and Mountain X-Press. Currently, $16,500 has been spent on CityWorks advertisements this fiscal year.

In the past eight months, the City has spent $16,495 on classified advertising, $44,190 on legal advertising, and $13,563 on CityWorks with the Asheville Citizen-Times. The City has spent a total of $3,025 with the Mountain X-Press for a total of $77,273 on advertising with these two publications. Small amounts of advertising dollars have also been spent with other publications. Job announcements should continue to be placed in the classified section of the newspaper; therefore, the total amount of money that the City is spending on legal advertising and CityWorks in both publications is $60,778.

It is the recommendation of staff that the City publish a 1/4 page ad every week and a full page ad on the last week of the month. This will address the problem of frequency that we now experience. Legal ads could be summarized in this full page ad if they are over two pages in length and included if they are under two pages. The cost of this advertising will be $60,683. Some legal advertising will still need to be advertised in the legal section of the paper and will be an additional cost. All of these advertising dollars will also be spent with the Asheville Citizen-Times.

Upon inquiry of Councilman Worley, Ms. Westbrook said that the Asheville Citizen-Times would be the only publication used.

When Mayor Martin inquired about having some ad in Mountain Xpress, Ms. Westbrook stated that it would be an additional $6-7,000 a year for their advertising.

Councilman Hay felt it was not only good to advertise in the Citizen-Times and the Mountain Xpress, but he felt some ads should be placed in the Asheville Advocate.

Mayor Martin asked for circulation figures for the Mountain Xpress and the Asheville Advocate.

It was the consensus of Council to review this issue further at the scheduled public hearing on the budget next week.

Outside Agency Funding

Mr. Bob Wurst, Audit/Budget Director, went through the funding recommendations from the City Council Committee on Outside Agencies as follows:

Agency	1995/96 Funding	Funding Requests	Funding Recommendations
Crime Stoppers	18,000	20,760	18,000
Community Relations Council	60,000	60,000	60,000
Arts Alliance	20,000	27,000	20,000
The Autism Society	0	1,000	0
RiverLink	15,250	27,250	15,250
Ashv Area Rescue Squad	11,250	25,000	11,250
Chamber of Commerce	90,000	100,000	90,000
Buncombe County Drug Commission	15,000*	75,000	30,000
A/B VISION Inc.	0**	20,000	5,000**
Ashv Sister Cities Inc.	0	2,000	0
YMICC	16,000***	16,000	16,000***
Totals	245,500	374,010	265,500

*Budget amendment to be recommended by Council Committee
**Plus in-kind contribution of downtown office space currently provided
***$8,000 of funding each fiscal year is reimbursed by Buncombe County

Councilman Cloninger went through each agency request stating that all agencies were very deserving; however, some cuts had to be made. The Committee felt the Autism Society was more in the nature of a social services and they did not allocate any funding. As far as Sister Cities, the Committee felt that there may be other ways the City can assist other than financially.

Councilman Hay questioned the $16,000 recommendation to the YMI. It was his understanding that the YMI was to receive $4,000 a month from March - June, 1996, with no further funding. This was also Vice-Mayor Field's understanding. Mr. Wurst stated that he would look into this concern.

Councilman Hay spoke in support of increasing the Vision allocation to $15,000, especially if an error in the YMI funding has occurred. Mayor Martin asked for additional information regarding the Vision's budget.

Vice-Mayor Field suggested at least $500 for the Sister City Program.

Upon inquiry of Councilman Skalski about the $90,000 allocation to the Chamber of Commerce, Vice-Mayor Field said that the $90,000 is the City's share of the convention and visitors bureau and the visitors center. Councilman Skalski felt that the City should not fund the Chamber.

Councilman Skalski felt that the Drug Commission should only be funded $15,000 because he was not sure they are making progress with the drug problems in Asheville. Mayor Martin responded by saying that he has been working closely with that Commission and in the past they have worked behind the scenes; however, they are now actively taking a part in programs that will make a difference in our community. He invited Councilman Skalski to attend one of their meetings. Councilman Cloninger agreed with Mayor Martin noting that he has recently been appointed their liaison and he has been impressed with their work.

Councilman Skalski preferred money being allocated towards jobs within the small business community in Asheville.

Vice-Mayor Field questioned just how the Vision implementation was to occur. She felt that if there was an error in the YMI funding, that money could be used to enforce the Minimum Housing Code.

At Councilman Worley's suggestion, it was the consensus of Council to hold the budget public hearing on June 11, 1996, however, not to actually vote on its adoption until the June 25, 1996, meeting.

City/County Funding Issues

Mr. Wurst explained the City/County funding issues. The City's current budget includes revenue from the County in the amount of $1,625,824. Information received from the County indicates that we will receive $1,560,532 which is $65,292 less than our current budget reflects.

The current budget with regard to the Criminal Justice Information Services ("CJIS") is $389,558. The County's request is $487,391, which

is $97,833 more than we anticipated. The County says the reason for the increase is for additional software changes which the City might request. City Manager Westbrook said that at this point, we do not know of any software changes the City may request and he suggested that should the City request the changes or anything outside the scope of the contract, at that time we would increase the budget. The Council agreed.

With regard to the ID Bureau, the City's budget is $95,566. The County's budget request is $136,546, which is a $40,980 difference. Since the City is in favor of the ID Bureau going to a 24 hour service, the City has no concern over this increase.

It was the consensus of the Council to ask the County to ask the other municipalities that use the ID Bureau to pay a portion of the cost. At the present time, Asheville and Buncombe County pay for the Bureau on a 50/50 basis, but other municipalities use the Bureau and do not pay anything.

In summary, Mr. Wurst said that we need to use $64,160 to balance the budget, noting that these items (recycling, CityWorks and outside agency requests) are still unresolved.

Minimum Housing Code Enforcement

Ms. Beth Maczka, Executive Director of the Affordable Housing Coalition, pleaded with Council to increase funding for the Inspections Division for enforcement of the Minimum Housing Code.

Discussion surrounded how often inspections are to occur and if our resources from the Inspections Division have been diverted from what was originally presented in 1993 when the new Code was adopted.

Councilman Hay said that the City did need to look into these allegations and suggested the Housing and Community Development Committee look into the concerns raised, since the budget concern is only one issue.

Mayor Martin asked the City Manager to investigate the concerns raised and report back to Council at their next meeting.

ASHEVILLE WATERSHED CONSERVATION EASEMENT

Councilman Worley said that the purpose of this easement is to preserve, in perpetuity, the view from the Blue Ridge Parkway overlooking our watershed property.

He stated that there are uses and practices on the affected property which shall not be limited by the easement. He summarized the consistent uses to be (1) to produce and deliver drinking water; (2) uneven-aged, selective timber harvesting may be conducted below the 3600 foot topographic elevation, in accordance with restrictions and conditions; (3) development of recreational facilities in a manner not inconsistent with the use of the property as a primary water source, whether under existing regulations or under such regulations as may be promulgated in the future, whether such regulations are more or less restrictive; and (4) such other uses as the Asheville City Council may determine as is necessary and in the best interests of the City of Asheville, with certain provisions.

Councilman Cloninger felt this was an excellent example to help convince private land owners along the Blue Ridge Parkway to do the same.

City Attorney Slawter outlined the procedural requirements necessary with regard to this easement.

Councilman Worley suggested that since Governor Hunt will be in Asheville on June 28, 1996, for the Year of the Mountain celebration, that City Council recess their formal meeting on June 25 and reconvene the meeting at the Year of the Mountain celebration on June 28 to adopt the resolution authorizing the Mayor to sign the easement.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

CONSENT:

Bids for Annual Contract for Asphalt Materials

Summary: Seals bids were invited to furnish the City's estimated annual requirement of asphalt materials for force account re-surfacing and street report. Two bids were received. In addition to the normal considerations given to a contract of this nature, such as specification compliance, price, service capabilities, etc., bid evaluations included consideration of the City's cost to transport materials from bidder's plant. The formula used to determine the total cost per ton simply adds transportation cost at $.10 per ton mile for comparison of total delivered cost. Mileage used in evaluating bids was determined from the Public Works facility on South Charlotte Street to the bidder's plant for Section No. I and from specific job sites to bidder plant for Section No. II. The following recommendations are based on the lowest delivered cost as shown on the bid summary which is attached hereto as Exhibit "A". The Public Works Director and the Street Superintendent both concur in this recommendation.

Staff recommends that award of bid be made for the purchase of asphalt on an as needed basis as follows:

Section No. I - Award to: 10,000 tons Type 1-2 for Street Surface Program
The bidder with the lowest cost with consideration of transportation, APAC Carolina Inc., Asheville, N.C., at a price per ton of $24.00 (net $24.00 after discount).

Section No. II - Split Award to: 1,550 tons of assorted mixes for pavement patching
APAC Carolina, Asheville, N.C., at a per ton price of $25.00 (net $24.00 after discount) and Taylor & Murphy Construction Company, Asheville, N.C., at a per ton price of $24.00 Mileage from job site to the nearest plant determines where to make purchase. Net prices are equal.

City Clerk to Advertise an Offer of Purchase for Upset Bids regarding Disposal Parcel 50A of the East Riverside Redevelopment Project

Summary: Disposal Parcel 50A is a CS Commercial Service lot located approximately 300 feet south of the intersection of Asheland and Hilliard Avenues comprising 6,181 square feet. The lot is generally triangular in shape and mostly flat at street level. The bid from Oak Valley Associates for Disposal Parcel 50A includes the proposal to

incorporate the lot into the property currently owned by Oak Valley Associates were the offices of Asheville Women's Medical Center are located. The development proposal consists of paving, landscaping and maintaining the lot consistent with the currently owned property. Oak Valley Associates is a partnership consisting of Craigan L. Gray, Catherine M. Wilson, Stephen T. Hill, William M. Callaghan and John P. Cuellar III.

The bid of Oak Valley Associates, in the amount of $30,900, for the purchase of Disposal Parcel 50A in the East Riverside Redevelopment Project is not less than the established minimum price of $30,900.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in G.S. 160A-269.

Vice-Mayor Field said that this particular piece of property looks to be appropriate for our greenway system and wondered if the City should wait until our greenway system plan is in place before selling any more property.

Mr. Ed Vess, Coordinator of Field Services, said that he would investigate Vice-Mayor Field's idea and report back at the next Council meeting.

Welcome to Oakley Sign

Summary: On April 30, 1996, the Oakley Neighborhood Association ("Association") asked City Council to use its influence in getting a variance from the N.C. Dept. of Transportation ("NC DOT") to erect a granite "Welcome to Oakley" sign along the right-of-way of U.S. 74 (Fairview Road). NC DOT is responsible for the construction and maintenance along said right-of-way.

The Association states that they have been "stone walled" at every attempt to get permission to install this sign. They request to locate this sign approximately 30 feet west of the intersection of U.S. 74 (Fairview Road) and Old Fairview Road and 25 feet from the edge of the sidewalk on the south side of U.S. 74 (Fairview Road).

The Traffic Engineering Division has reviewed the proposed location and the Association has guaranteed that this location will not obstruct sight distance requirements along these roadways.

The Association will be responsible for the installation and removal of this sign, as per the NC DOT requirement.

The Public Works Department recommends adoption of this resolution and that it be forwarded to the NC DOT for consideration.

Setting Public Hearings to Demolish: 112 Brooklyn Road, 3 North Crescent Street, 349 London Road, 25 Michael Street and 20 Springside Drive

It was the consensus of Council to proceed with appropriate actions on the Consent Agenda at the next formal meeting.

BOARDS AND COMMISSIONS

It was the consensus of Council to reappoint Beth Arrowood as Chairman of the Civil Service Board.

OTHER ITEMS

Request to Postpone Public Hearing to Rezone on Haywood Road and Dysart Street

City Attorney Slawter said that he had received a call from Joseph Herrin, attorney representing Mr. Dennis Brackett who is appealing the Planning & Zoning Commission's denial of a rezoning request. Mr. Herrin asked that Council again postpone the public hearing scheduled to continue on June 11 in order to allow sufficient time for them to proceed with an alley closing and straighten out any other issues. Or, in the alternative, he requested City Council postpone a decision on the rezoning request until such time as the alley closing is considered.

City Council concurred with the request to continue the public hearing until August 13, 1996, based upon their belief that word could be gotten out to all interested parties that the public hearing would not be held on June 11.

Resolution No. 96-92 - Resolution in Memory of Annette L. McDaniels

Mayor Martin read the resolution in memory of Annette L. McDaniels who retired from the City of Asheville Parks and Recreation Department in 1994 after 25 years of service.

Resolution No. 96-92 was adopted by acclamation.

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ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:15 p.m.

Magdalen Bowman
CITY CLERK

MAYOR

CITY OF ASHEVILLE
PURCHASING DIVISION

BID SUMMARY
BID REQUEST NO. 454-96

BID OPENED: THURSDAY, MAY 9, 1996 3:00 P.M.

SECTION NO. I - 10,000 TONS, TYPE I-2 FOR STREET SURFACE PROGRAM
TO BE PICKED UP IN TRUCK LOAD QUANTITIES AS NEEDED

VENDOR	TON UNIT PRICE	AMOUNT	TERMS	TON NET PRICE	PLANT LOCATION/(MI.)	*NET DELIVERED COST PER TON	BID DEPOSIT
APAC-CAROLINA INC. ASHEVILLE, N. C.	$25.00	$250,000	4%15/N30	$24.00	Swannanoa (12.0) Enka (9.2) Weaverville (10.0)	$25.20 $24.92 $25.00	5% Bid Bond
TAYLOR & MURPHY ASHEVILLE, N. C.	$24.00	$240,000	Net 30	$24.00	Fletcher (18.6)	$25.86	5% Bid Bond

SECTION NO. II - 1550 TONS ASSORTED TYPE HB, F-I, H, I-1 AND I-2 FOR PAVEMENT
PATCHING PROGRAMS TO BE PICKED UP IN SMALL BATCH QUANTITIES AS NEEDED

VENDOR	TON UNIT PRICE	AMOUNT	TERMS	PLANT LOCATION	*NET COST PER TON
APAC-CAROLINA INC. ASHEVILLE, N. C.	$25.00	$38,750	4%15/N30	Swannanoa (E) Enka (W) Weaverville (N)	$24.00
TAYLOR & MURPHY ASHEVILLE, N. C.	$24.00	$37,200	Net 30	Fletcher (S)	$24.00

*NET DELIVERY COST = BID PRICE LESS DISCOUNT + (MILEAGE X .10 PER TON MILE)
a) SECTION NO. I. MILEAGE DETERMINED FROM THE PUBLIC WORKS FACILITY ON SOUTH CHARLOTTE STREET TO BIDDER'S PLANT.
b) SECTION NO. II: MILEAGE DETERMINED FROM SPECIFIC JOB SITE TO BIDDER'S PLANT.

Exhibit "A"

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Tuesday - June 11, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Sellers gave the invocation.

I. PROCLAMATIONS:

A. 1997 Tour DuPont

Mr. James France, General Manager of The Grove Park Inn Resort, announced their co-sponsorship with the City of Asheville for the 1997 Tour DuPont.

He stated that the contract will re-establish a mutually beneficial relationship between professional cycling and Western North Carolina and they are anxious to begin preparations for the return of America's premier cycling event to Asheville in May 1997. He presented Mayor Martin with a yellow jersey autographed by Lawrence Armstrong.

Councilman Hay appreciated the role The Grove Park Inn Resort is playing in the Tour DuPont and thanked them for their efforts.

Vice-Mayor Field move to authorize the Mayor to execute a contract in order to bring the Tour DuPont back to Asheville in 1997, said contract subject to the approval of the City Attorney's Office. This motion was seconded by Councilman Worley and carried unanimously.

B. RESOLUTION NO. 96-91 - RESOLUTION TO RETIRING EMPLOYEE WILLIAM L. FULP SR., RECREATION CENTERS SUPERVISOR, IN THE PARKS & RECREATION DEPARTMENT

City Manager Westbrook read the resolution stating that Bill Fulp has been an employee for 18 years and has requested retirement from his position as Recreation Centers Supervisor in the Parks & Recreation Department. He expressed City Council's appreciation to Bill for his service to the City of Asheville and its citizens.

Councilman Worley moved for the adoption of Resolution No. 96-91. This motion was seconded by Councilman Skalski and carried unanimously.

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C. EXCELLENCE IN PUBLIC SERVICE AWARDS

Mayor Martin recognized Mr. Ed Vess, Field Services Coordinator in the Planning & Development Department, for receiving the award in the Equal Employment Opportunity Service category of the Excellence in Public Service Program. He also recognized Mr. Alan Hyder, Administrative Services Manager in the Police Department, for receiving the Outstanding Professional Employee Award in that Program.

Mayor Martin congratulated Ms. Deanna McCarson for doing an excellent job in chairing the Public Service Awards this year.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO ADOPTION OF THE 1996-97 ANNUAL OPERATING BUDGET

Mayor Martin opened the public hearing at 5:17 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Audit/Budget Director Bob Wurst said that the recommended General Fund budget in the amount of $49,850,885, was presented to the Council on May 2, 1996. The ordinance as recommended sets the tax rate at $.57/$100 valuation (as in the current fiscal year with no increase).

CityWorks

Ms. Robin Westbrook, Water Efficiency Coordinator, said that the staff recommendation consists of a 1/4 page ad each week and a full page ad in last week of each month. The estimate for that recommendation is $60,683 and is for advertising in the Asheville-Citizen Times only.

It was the consensus of Council to budget $60,683 in 1996-97 for a weekly CityWorks ad and to instruct staff to use the Asheville Citizen-Times and the Mountain Xpress for publishing.

Outside Agency Requests

Mr. Wurst said that the agreement with the YMI and Buncombe County called for total funding of $16,000 of which $8,000 is provided by the City for operating costs for March, April, May and June of 1996 with no commitment beyond June 30, 1996. Therefore, the 1996/97 budget can be revised in the net amount of $8,000 ($16,000 less $8,000 from the County).

Ms. Cindy Batson, Internal Auditor, said that the Council Outside Agency Committee has recently met and the following are their recommendations:

Agency	Funding Requests	Funding Recommendations
Asheville-Buncombe Crime Stoppers	20,760	18,000
A-B Community Relations Council	60,000	60,000
Arts Alliance	27,000	27,000
The Autism Society	1,000	0
RiverLink	27,250	15,250
Ashv Area Rescue Squad	25,000	11,250
Asheville Area Chamber of Commerce	100,000	90,000
Buncombe County Drug Commission	60,000	45,000*
A/B VISION Inc.	20,000	15,000**
Asheville Sister Cities Inc.	2,000	2,000
Totals	374,010	283,500

* $15,000 is in current fiscal year budget
** Plus in-kind contribution of office space

Vice-Mayor Field moved to accept the Committee recommendations. This motion was seconded by Councilman Hay and carried on a 6-1 vote, with Councilman Skalski voting "no".

Fees & Charges

Ms. Batson said that City departments have requested a limited number of changes to the City's user fees. These fees have recently been reviewed by the City Council Fees and Charges Committee and they are recommending the following revisions:

Parks & Recreation Department:
- After School Program
  - $5.00 increase in the first, second and third child categories
  - $20 non-refundable registration fee
- Day Camp Program
  - $4.00 increase in the first, second and third child categories
  - $20 non-refundable registration fee

Fire Department:
- Fireworks Public Discharge Permit - Typographical error made - Schedule shows $25.00, but actually should have been $100.00

Civic Center:
- Personnel
  - Door Guards increased to $7.50 hour
  - Ticket Takers increased to $7.50 hour
  - Ushers increased to $7.50 hour
  - EMT's increased to $13.00 hour
  - Receptionist increased to $7.50 hour
  - Laborer increased to $7.50 hour
  - Coordinator increased to $11.00 hour

Building Safety Department:
- Temporary Utilities and/or Occupancy
  - Initial application (per inspection) - from 0 to $30
  - Renewal without reinspection required - from 0 to $40
  - Renewal with reinspection required (per inspection) - from 0 to $30
- ABC Inspections - from 0 to $120 ($30 per trade inspected)
- Inspection Fees
  - Owner occupied single family dwelling (per unit) - from $36 to $50
  - Rental property up to 3 units (per unit inspected) - from $36 to $50
  - Rental property over 3 units (per unit inspected) - from $18 to $25
  - Certificate of Exemption (per unit) - from $5 to $10

Councilman Worley, Chairman of the Council Fees and Charges Committee, said that the Committee increased the Housing Code inspection fees with the understanding that the increase would go toward assuring that we have an adequate Housing Code inspection program and with the hope that some of the revenues from those fees could help cover those costs. The Committee looked at all the fees and what was reasonable and comparable to the private sector.

When Ms. Beth Maczka, Executive Director of the Affordable Housing Coalition, asked whether fines were increased for non-compliance of the

Housing Code, Mayor Martin explained that all fines are levied under the Fire Code.

Councilman Cloninger moved to accept the Council's Fees & Charges Committee's recommendations. This motion was seconded by Councilman Skalski and carried unanimously.

Housing Code Enforcement

As a result of questions raised at the worksession held on June 4, 1996, regarding the enforcement of Asheville's Minimum Housing Code, Mr. Terry Summey, Director of the Building Safety Department, briefed Council extensively on (1) the Housing Code inspection schedule; (2) the evolution of Minimum Housing Code efforts from July 1, 1994, through July 1, 1995; (3) scheduling Housing Code enforcement training; (4) rental property inspections completed; and (5) review of the Housing code issues and action plans.

When Councilman Hay asked Mr. Summey if he felt 3.5 employees were adequate for Housing Code enforcement, Mr. Summey replied that 3.5 employees would be adequate.

Mr. Summey then answered various questions from Council as they related to personnel matters and the number of inspections made per week.

Upon inquiry of Councilman Skalski, Mr. Robert Griffin, Assistant Fire Chief, said that in 1994 14 fines for violations were issued and in 1995 12 fines.

Vice-Mayor Field stressed that Council worked very hard to put together a Minimum Housing Code and was surprised to hear last week that it was not being enforced. She felt it was very important that Building Safety have the resources to do enforcement so that the City can maintain the quality of our housing stock so we will not have to build new units in the future. She felt that once all the rental units are located, perhaps with the help of the Affordable Housing Coalition and others, a regular schedule of inspections can be developed and the Housing Code will be easier to enforce.

Mr. Tony Sayer, President of the Affordable Housing Coalition Board, expressed concern about the level of enforcement of the Housing Code, in particular with rental properties. He felt that 3.5 inspectors might be sufficient to enforce the Code if it was currently being enforced at full capacity. However, he suggested the addition of one more inspector in order to get caught up and allow future inspections at a much higher rate.

Ms. Beth Maczka, Executive Director of the Affordable Housing Coalition, echoed Mr. Sayer's comments and stressed the need for preservation of our housing stock.

Ms. Minnie Jones spoke in support of enforcement of the Housing Code.

Ms. Lisa Riker, Housing Crisis Counselor for the Affordable Housing Coalition, relayed to Council some appalling stories of conditions that renters live in. She urged Council to give the situation as much consideration as possible.

Recycling

Mr. Mark Combs, Director of Public Works, said that he has talked at length with the Buncombe County Solid Waste Committee and they were adamant about the blue bag system that the County is currently using.

Mayor Martin said that he has received a request from the County that City Council fund this program in their 1996-97 budget, however, delay any action on the particular collection system to be used.

Councilmen Hay and Cloninger saw no problem in the County's request, but did not want the implementation of the program delayed.

It was the consensus of Council to ask a representative of the Buncombe County Solid Waste Committee to be present at Council's worksession next week in order to give them an opportunity to advise the entire Council on their views of blue bag vs. bin collection.

General Budget Comments

Ms. Leni Sitnick asked for clarification and explanation on several items throughout the budget. Mr. Wurst responded where appropriate. She felt that the Mayor and Council salaries should be evaluated, assessed and raised to be commensurate with what the Council does for the City. She stated that, in her opinion, the way to attract and recruit is to make the place you live so wonderful that people will not want to move. That can be achieved by providing a good infrastructure, good quality of life, good schools, affordable housing, etc.

Mayor Martin closed the public hearing at 6:39 p.m.

Mayor Martin said that members of Council will be taking into consideration all the information presented at this public hearing and will vote on adoption of the 1996-97 annual operating budget on June 25, 1996.

B. CONTINUATION OF PUBLIC HEARING TO REZONE 865 HAYWOOD ROAD AND 2 DYSART STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY

Mayor Martin said that this public hearing was opened on April 9, 1996, and continued until this date pursuant to a request of the petitioner's attorney Mr. Joseph Herrin.

On June 4, 1996, the petitioner's attorney sent a letter dated June 4, 1996, which reads in part: "In an effort to close the alleyways, we have contracted for two title searches to be completed on the property surrounding the alleyways. The first search revealed no problems. However, the second search, which was performed, out of an abundance of caution on our part, by an attorney, revealed a potential ownership problem on one of the tracts of property owned by Mr. Brackett which may impact both the rezoning request and the alleyway closing. We first learned of this potential issue in mid-May. ... Therefore, we respectfully request that this matter be continued until such time as the petition to close the alleyways is heard by City Council and we have an opportunity to resolve any questions regarding ownership of the tracts at issue. Or, in the alternative, ... postpone a decision on this rezoning request until such time as the alleyways closing petition is heard."

Councilman Worley moved to continue the public hearing until August 13, 1996, without further advertisement. This motion was seconded by Councilman Sellers and carried unanimously.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

V. CONSENT:

Councilman Skalski said that Barleys has requested that Item G. be pulled from the Consent Agenda to be discussed individually.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 28, 1996, AND THE WORKSESSION HELD ON JUNE 4, 1996

B. RESOLUTION NO. 96-93 - RESOLUTION TO AWARD ANNUAL CONTRACT FOR ASPHALT MATERIALS

Summary: Seals bids were invited to furnish the City's estimated annual requirement of asphalt materials for force account re-surfacing and street report. Two bids were received. In addition to the normal considerations given to a contract of this nature, such as specification compliance, price, service capabilities, etc., bid evaluations included consideration of the City's cost to transport materials from bidder's plant. The formula used to determine the total cost per ton simply adds transportation cost at $.10 per ton mile for comparison of total delivered cost. Mileage used in evaluating bids was determined from the Public Works facility on South Charlotte Street to the bidder's plant for Section No. I and from specific job sites to bidder plant for Section No. II. The following recommendations are based on the lowest delivered cost as shown on the bid summary which is attached hereto as Exhibit "A". The Public Works Director and the Street Superintendent both concur in this recommendation.

Staff recommends that award of bid be made for the purchase of asphalt on an as needed basis as follows:

Section No. I - Award to: 10,000 tons Type 1-2 for Street Surface Program The bidder with the lowest cost with consideration of transportation, APAC Carolina Inc., Asheville, N.C., at a price per ton of $24.00 (net $24.00 after discount).

Section No. II - Split Award to: 1,550 tons of assorted mixes for pavement patching APAC Carolina, Asheville, N.C., at a per ton price of $25.00 (net $24.00 after discount) and Taylor & Murphy Construction Company, Asheville, N.C., at a per ton price of $24.00 Mileage from job site to the nearest plant determines where to make purchase. Net prices are equal.

RESOLUTION BOOK NO. 23 - PAGE 200

C. RESOLUTION NO. 96-94 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL PARCEL 50A OF THE EAST RIVERSIDE REDEVELOPMENT PROJECT

Summary: Disposal Parcel 50A is a CS Commercial Service lot located approximately 300 feet south of the intersection of Asheland and Hilliard Avenues comprising 6,181 square feet. The lot is generally triangular in shape and mostly flat at street level. The bid from Oak Valley Associates for Disposal Parcel 50A includes the proposal to incorporate the lot into the property currently owned by Oak Valley Associates were the offices of Asheville Women's Medical Center are located. The development proposal consists of paving, landscaping and maintaining the lot consistent with the currently owned property. Oak Valley Associates is a partnership consisting of Craigan L. Gray, Catherine M. Wilson, Stephen T. Hill, William M. Callaghan and John P. Cuellar III.

The bid of Oak Valley Associates, in the amount of $30,900, for the purchase of Disposal Parcel 50A in the East Riverside Redevelopment Project is not less than the established minimum price of $30,900.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in G.S. 160A-269.

RESOLUTION BOOK NO. 23 - PAGE 202

D. RESOLUTION NO. 96-95 - RESOLUTION REQUESTING THE N.C. DEPT. OF TRANSPORTATION TO ALLOW THE OAKLEY NEIGHBORHOOD ASSOCIATION TO ERECT A GRANITE "WELCOME TO OAKLEY" SIGN ALONG THE RIGHT-OF-WAY OF U.S. 74 (FAIRVIEW ROAD) IN ASHEVILLE, N.C.

Summary: On April 30, 1996, the Oakley Neighborhood Association ("Association") asked City Council to use its influence in getting a variance from the N.C. Dept. of Transportation ("NC DOT") to erect a granite "Welcome to Oakley" sign along the right-of-way of U.S. 74 (Fairview Road). NC DOT is responsible for the construction and maintenance along said right-of-way.

The Association states that they have been "stone walled" at every attempt to get permission to install this sign. They request to locate this sign approximately 30 feet west of the intersection of U.S. 74 (Fairview Road) and Old Fairview Road and 25 feet from the edge of the sidewalk on the south side of U.S. 74 (Fairview Road).

The Traffic Engineering Division has reviewed the proposed location and the Association has guaranteed that this location will not obstruct sight distance requirements along these roadways.

The Association will be responsible for the installation and removal of this sign, as per the NC DOT requirement.

The Public Works Department recommends adoption of this resolution and that it be forwarded to the NC DOT for consideration.

RESOLUTION BOOK NO. 23 - PAGE 203

E. RESOLUTION NO. 96-96 - RESOLUTION REAPPOINTING BETH ARROWOOD AS CHAIRMAN TO THE CIVIL SERVICE BOARD

Summary: The term of Beth Arrowood as Chairman of the Civil Service Board expired on May 21, 1996. This resolution will reappoint Ms. Arrowood as Chairman of the Civil Service Board, to serve an additional two year term, term to expire May 21, 1998, or until her successor is appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 204

F. RESOLUTION NO. 96-97 - RESOLUTION AUTHORIZING PUBLICATION OF NOTICE OF INTENT TO CONVEY A CONSERVATION EASEMENT RELATED TO THE ASHEVILLE WATERSHED

Summary: This resolution will direct the publication of a required ten-day notice prior to the conveyance of the conservation easement for the Asheville Watershed.

At the June 4 City Council work session the Council indicated a willingness to move forward with the granting of a conservation easement to the Conservation Trust for North Carolina related to the Asheville Watershed. During the work session there was discussion regarding whether to go ahead and get the ten-day notice requirement out of the way before June 28, or whether to have the Council vote on the matter on June 28, following which the ten-day notice period would run. This resolution will direct the publication of the ten-day notice so that this can occur before the anticipated meeting on June 28, but will require the adoption of an additional resolution on June 28 so as to formally authorize the Mayor to sign the easement. By following this procedure, we can go ahead and get the ten-day notice period out of the way before June 28, and still have a formal vote be taken by the City Council at the June 28 Year of the Mountains Celebration. This will hopefully allow the Mayor to actually deliver the easement to the Conservation Trust for North Carolina at the June 28 meeting, rather than having to wait for an additional period of time after that meeting.

RESOLUTION BOOK NO. 23 - PAGE 205

G. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE DOWNTOWN ASSOCIATION'S EVENTS FOR 1996

This item was pulled off the Consent Agenda for discussion.

H. RESOLUTION NO. 96-98 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 25, 1996, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 112 BROOKLYN ROAD

RESOLUTION BOOK NO. 23 - PAGE 206

I. RESOLUTION NO. 96-99 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 25, 1996, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 3 NORTH CRESCENT STREET

RESOLUTION BOOK NO. 23 - PAGE 208

J. RESOLUTION NO. 96-100 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 25, 1996, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 349 LONDON ROAD

RESOLUTION BOOK NO. 23 - PAGE 210

K. RESOLUTION NO. 96-101 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 25, 1996, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 25 MICHAEL STREET

RESOLUTION BOOK NO. 23 - PAGE 212

L. RESOLUTION NO. 96-102 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 25, 1996, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 20 SPRINGSIDE DRIVE

RESOLUTION BOOK NO. 23 - PAGE 214

M. MOTION SETTING A PUBLIC HEARING ON JUNE 25, 1996, TO REDUCE THE FRONT SETBACK REQUIREMENT FOR NON-RESIDENTIAL USES IN THE R-1A, R-2, R-3, R-4 AND R-5 ZONING DISTRICTS

N. MOTION SETTING A PUBLIC HEARING ON JUNE 25, 1996, TO DEFINE RECYCLING COLLECTION CENTERS; IDENTIFY RECYCLING COLLECTION CENTERS AS A CONDITIONAL USE IN CERTAIN NON-RESIDENTIAL ZONING DISTRICTS; AND ESTABLISH CONDITIONS FOR THE DEVELOPMENT OF RECYCLING COLLECTION CENTERS

O. MOTION SETTING A PUBLIC HEARING ON JUNE 25, 1996, ESTABLISHING STANDARDS FOR TELECOMMUNICATIONS TOWERS IN ALL ZONING DISTRICTS

P. MOTION SETTING A PUBLIC HEARING ON JUNE 25, 1996, TO REZONE THREE PARCELS OFF ROCK HILL ROAD FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL

Q. MOTION SETTING A PUBLIC HEARING ON JUNE 25, 1996, TO AMEND THE CURRENT FLOODPLAIN MANAGEMENT REGULATIONS TO REFERENCE A NEWLY COMPLETED STUDY WHICH DELINEATES THE FLOOD-PRONE AREAS IN THE CITY OF ASHEVILLE'S JURISDICTION

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved to approve the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCES:

A. ORDINANCE NO. 2286 - ORDINANCE AMENDING THE MEMBERSHIP OF THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: This ordinance will include the position of the Chamber of Commerce's Director of Convention and Marketing Sales as an ex officio, non-voting, member on the Asheville Area Civic Center Commission.

ORDINANCE BOOK NO. 23 - PAGE 380

B. ORDINANCE NO. 2287 - ORDINANCE AMENDING THE MEMBERSHIP OF THE ASHEVILLE DOWNTOWN COMMISSION

Summary: This ordinance will change the terms of Commission members from two year term to three year terms. It will also take out the period of embodiment language.

ORDINANCE BOOK NO. 23 - PAGE 381

C. ORDINANCE NO. 2288 - BUDGET AMENDMENT TO PROVIDE FUNDING FOR THE SANITATION DIVISION BRUSH COLLECTION

Summary: This budget amendment, in the amount of $20,000, will provide brush collection on Saturdays for four weeks.

ORDINANCE BOOK NO. 23 - PAGE 382

D. ORDINANCE NO. 2289 - BUDGET AMENDMENT TO PROVIDE FUNDING FOR THE STREET DIVISION IN THE OVERTIME AND MATERIALS LINE ITEMS

Summary: This budget amendment, in the amount of $120,000, relative to adverse weather conditions requiring the Street Division to respond.

ORDINANCE BOOK NO. 23 - PAGE 384

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they would not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Skalski.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and final reading.

ITEM PULLED OFF THE CONSENT AGENDA FOR DISCUSSION

RESOLUTION NO. 96-103 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE DOWNTOWN ASSOCIATION'S EVENTS FOR 1996

Summary: Ordinance No. 2281, recently adopted by the Asheville City Council, regulates the possession and consumption of malt beverages and/or unfortified wine on public property. One provision of this new ordinance states that such possession/consumption is permitted at a community event or festival, but only if the Asheville City Council has adopted a resolution making provisions for this possession/consumption.

This resolution would provide for the possession and consumption of malt beverages and/or unfortified wine for ADA's 1996 events as listed in the resolution. The resolution provides for the location and times for each of the events.

The co-owner of Barleys stated that they do support Ordinance No. 2281; however, they do not support Resolution No. 96-74 adopted by Council on May 14, 1996. He urged council to reconsider said resolution which restricts the possession and consumption of alcohol to only certain areas of the Bele Chere Festival area.

Councilman Hay said it was his understanding that the Bele Chere Board is meeting on this issue and will be coming back to Council with a recommendation.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 96-103. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 216

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on June 5, 1996:

Hall Fletcher Elementary School located on Garden Circle

Mr. Carl Ownbey, Urban Planner, said that this proposed project is for classroom expansion for the existing elementary school located on Garden Circle in West Asheville. The proposed project will be a three story, 14,000 square foot structure adjacent to the existing school.

On May 6, 1996, the Planning Department received the site plan for the proposed elementary school expansion. The proposed construction will be 14,000 square feet of classrooms and administrative offices designed to meet the state guidelines for classroom size. The site plan was presented to the Technical Review Committee on May 13, 1996 for their comments.

On June 5, 1996, the Commission reviewed the site plan and opened the meeting for public comment. Only one individual from the neighborhood spoke and questioned why the school was expanding since the student enrollment of the school was decreasing. The architect for the project explained the reason for the expansion, which is to meet state standards for elementary classroom size, and how this project effected student enrollment.

The Commission voted unanimously to approve the project with five conditions and the Planning Staff recommend approval of the Hall Fletcher Elementary School expansion with the following five conditions:

1. Obtain a Conditional Use Permit from the Board of Adjustment;
2. Acquire driveway permits for the parking lot;
3. Letter from Water Resources Department to determine the intent for an additional water tap;
4. Letter from MSD on sewer service availability; and
5. Letter from Fire Department on adequate water flow for fire protection.

Ms. Leni Sitnick urged Council to remember when site plans come before Council for approval, that they make sure the site plan has been reviewed by the Tree/Greenway Commission.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

B. CLAIMS

The following claims were received by the City of Asheville during the week of May 17-30, 1996: James Plummer (Water), Ricky Ingle (Streets), Harry Hunter (Sanitation), Roberta Lipe (Parks & Recreation), Bell South (Water), Marvin and Julie Thompson (Water), Dan Black (Water), and Crescent View Retirement Center (Water).

The following claims were received from May 21 - June 6, 1996: Catherine Donley (Parks & Recreation), Michael D. Ayers (Streets) and Michael Marion (Streets).

These claims will be referred to Asheville Claims Corporation for investigation.

CLOSED SESSION

At 7:00 p.m. Councilman Cloninger moved to go into closed session, as authorized by G.S. 143-318.11 (a) (6) to consider the performance of an individual officer or public employee. This motion was seconded by Vice-Mayor Field and carried unanimously.

At 8:27 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:27 p.m.

Magdalen Bowlesom
CITY CLERK

MAYOR

CITY OF ASHEVILLE
PURCHASING DIVISION

BID SUMMARY
BID REQUEST NO. 454-96

BID OPENED: THURSDAY, MAY 9, 1996 3:00 P.M.

SECTION NO. I - 10,000 TONS, TYPE I-2 FOR STREET SURFACE PROGRAM
TO BE PICKED UP IN TRUCK LOAD QUANTITIES AS NEEDED

VENDOR	TON UNIT PRICE	AMOUNT	TERMS	TON NET PRICE	PLANT LOCATION/(MI.)	*NET DELIVERED COST PER TON	BID DEPOSIT
APAC-CAROLINA INC. ASHEVILLE, N. C.	$25.00	$250,000	4%15/N30	$24.00	Swannanoa (12.0) Enka (9.2) Weaverville (10.0)	$25.20 $24.92 $25.00	5% Bid Bond
TAYLOR & MURPHY ASHEVILLE, N. C.	$24.00	$240,000	Net 30	$24.00	Fletcher (18.6)	$25.86	5% Bid Bond

SECTION NO. II - 1550 TONS ASSORTED TYPE HB, F-I, H, I-1 AND I-2 FOR PAVEMENT
PATCHING PROGRAMS TO BE PICKED UP IN SMALL BATCH QUANTITIES AS NEEDED

VENDOR	TON UNIT PRICE	AMOUNT	TERMS	PLANT LOCATION	*NET COST PER TON
APAC-CAROLINA INC. ASHEVILLE, N. C.	$25.00	$38,750	4%15/N30	Swannanoa (E) Enka (W) Weaverville (N)	$24.00
TAYLOR & MURPHY ASHEVILLE, N. C.	$24.00	$37,200	Net 30	Fletcher (S)	$24.00

*NET DELIVERY COST = BID PRICE LESS DISCOUNT + (MILEAGE X .10 PER TON MILE)
a) SECTION NO. I MILEAGE DETERMINED FROM THE PUBLIC WORKS FACILITY ON SOUTH CHARLOTTE STREET TO BIDDER'S PLANT.
b) SECTION NO. II: MILEAGE DETERMINED FROM SPECIFIC JOB SITE TO BIDDER'S PLANT.

Tuesday - June 18, 1996 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

MSD SEWER LINE EXTENSION POLICY

City Council discussed with their MSD representatives, Mr. Larry Casper, Mr. Ben Slosman, and Mr. Mike Holcombe, the recently adopted MSD resolution concerning its sewer line extension policy. Discussion surrounded the inconsistencies between the MSD policy and Council's economic development policy.

The City's representatives answered various questions from Council regarding MSD's rationale behind their no sewer line extension policy; MSD's budget; how, or if, MSD plans for the future; and District boundary expansion.

Councilman Worley wondered if a task force should be appointed to assist in the planning process.

Council and their MSD representatives all agreed that it would be a good idea to meet often to discuss matters of mutual concern.

RECYCLING REPORT

Mr. Mark Combs, Public Works Director, said that City Council tabled staff's recommendation for a recycling vendor until the issues of collection conveyance (bin vs. "blue bag" system), frequency of pick-up, and other technical issues can be clarified.

Mr. Jan Davis, Chairman of the Buncombe County Solid Waste Committee, discussed why the Committee felt the City should use the recycling program Buncombe County has in place, which is a weekly pickup with blue bags).

Mr. Davis urged Council to open negotiations with potential contractors to determine that the proposed system meets stated goals and that it will achieve the lowest possible cost. He also requested Council consider cost efficiency of in-house collection and compare private cost proposals to cost for city crews to collect and to review existing time/manning/collection studies.

Ms. Sandy Chiles, Eastern Regional Director of the National Association of Plastic Container Recovery, agreed with Mr. Davis that the City should be consistent with the County in the recycling program. She felt the public education program was the biggest reason that the City and County should work jointly in this program.

Council then asked various questions relating to the rates charged in the County, the term of the contract, if in-house collection was considered, the results of the recycling pilot program the City conducted in the late 1980's, who cleans up when recycling is scattered by dogs, would there be any problems with container space on the trucks, will the County's $150,000 for a public education program be available to the City, how the City envisions their educational program to run, and what happens if a household needs more than one bin.

Mr. Combs said that it was his recommendation, based on cost reasons strictly, that the bid be awarded to the lowest bi-weekly bidder - Curbside Management Inc., in the amount of $429,120 (bin system).

When Mayor Martin asked Mr. Combs what his experience has been with systems used in other cities, Mr. Combs replied that bins are the most prevalent method used in urban sections.

Ms. Leni Sitnick hoped that the education program would also show people the different number of things that can be recycled. She stressed that it needed to be a comprehensive education program.

When Vice-Mayor Field questioned the 10% difference in weekly vs. bi-weekly pickup, Mr. Combs said that he would furnish the Council with more information on the differences. Vice-Mayor Field then stressed that she wanted the program to be a success and if picking up the recycling once a week will make it consistent, then the Council will need to consider the additional $50,000.

Councilman Cloninger suggested the City start with the bi-weekly pickup.

It was the consensus of Council to place this matter on the next formal meeting for a final vote.

PARADE ORDINANCE

Police Chief Will Annarino said that this ordinance amends Article IV (*processions and Assemblages*) of Chapter 16 of the Code of Ordinances of the City of Asheville.

In November of 1993, the Honorable Robert P. Johnston, Buncombe County Superior Court Judge, found the definitional section defining "picket lines" of the City's ordinance to be unconstitutional on the grounds that same was vague and over-inclusive. While an appeal from that decision was taken by the Buncombe County District Attorney's Office at the request of the City to the North Carolina Court of Appeals, it was subsequently determined that the appeal should be withdrawn. Upon withdrawing the appeal, the City decided to revisit its parade/picket ordinance in light of current developments in case law.

After extensive research and meetings of staff, an amended ordinance that was approved by the North Carolina Attorney General's Office was submitted to City Council for consideration and adoption on July 25, 1995. Members of City Council asked staff to revisit the ordinance by inviting members of the public to participate in the drafting of the ordinance.

The efforts at revising the July 25, 1995, amended ordinance have been extensive, including numerous staff meetings, revisions, amendments, meetings with citizens interested in the amended ordinance, receiving their input, subsequently revising the ordinance consistent with comments received from the public, additional meetings between staff, substantial research with the final result being this proposed ordinance.

The amended ordinance does not require a permit to engage in picketing activity. However, picketers are encouraged to provide notice to the Chief of Police of intent to picket.

The ordinance, among other things, makes it unlawful for any person to engage in picketing focused on and taking place in front of a particular residence. The amended ordinance permits the charging of an administrative service fee for the issuance of parade permits with "parade" being distinguished under the terms of the ordinance from "picketing" activity. The ordinance further allows waiver of the administrative fee for indigency. A fee is also permitted to be charged under the ordinance to cover expenses incidental to a request for police escort.

The Asheville Police Department recommends adoption of the amended ordinance.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

At 5:15 p.m., Mayor Martin announced a ten minute recess.

MSD EASEMENT AGREEMENTS

Catawba/Broadway and Malvern Hills Park

Mr. Irby Brinson, Parks & Recreation Director, said that the City of Asheville and the Metropolitan Sewerage District of Buncombe County ("MSD") wish to enter into an Easement Agreement for a sewer easement across Malvern Hills Park and Catawba/Broadway.

The City of Asheville and MSD have been working for a period of time to address an Easement Agreement across property operated by the Parks and Recreation Department. The two parcels of property are Malvern Hills Park and Catawba/Broadway. MSD has been willing to work with the City to protect and preserve trees within both areas. In addition, MSD has been sensitive to the concern of the Parks and Recreation Department in regard to the timing of the project in Malvern Hills. They have agreed to not allow construction of the sewer line replacement during the swimming pool season. Both parties agree that the increased number of participants in the Park during this time could cause a potential liability that should be avoided. Both agreements have been reviewed and approved by the Legal staff.

The Parks and Recreation Department recommends that City Council approve easement agreements to allow sewer line replacement across Malvern Hills Park and Catawba/Broadway.

Upon inquiry of Councilman Skalski, Ms. Leni Sitnick said that the Tree/Greenway Commission was involved in the Malvern Hills Park easement, but not the Catawba/Broadway easement.

It was the consensus of Council to proceed with appropriate actions at the next formal meeting.

TRAFFIC ISSUES ON EDGEWOOD ROAD

Mr. Doug Spell, Assistant City Manager, said that since December, 1993, City staff has been working with residents regarding various traffic safety concerns along Edgewood Road. During this time, speed studies have been conducted, the speed limit has been reduced, rumble strips installed, signs and pavement markings installed, street lights installed and hedges posing a sight distance problem at the Darcy Lane intersection have been removed. The City has continued to receive complaints from residents living adjacent to Edgewood Road. Staff from

the Police Department and Public Works Department have met on several occasions with residents living along Edgewood Road.

On May 15, 1996, a neighborhood meeting was scheduled with residents in the vicinity of Edgewood Road. The purpose of this meeting was to "discuss traffic issues/concerns along Edgewood Road and the affects on the surrounding neighborhood". As a part of this meeting, City staff had discussed and prepared a "List of Various Alternatives" to the complaints received along Edgewood Road. City staff addressed each of the alternatives which included discussion outlining "pros" and "cons". At the neighborhood meeting, each of the alternatives were presented and discussed and input was received from the attendees. Approximately 35 residents from the neighborhood attended and also Mr. Tom Byers attended the meeting representing UNC-A. Additionally, 16 City staff members attended the meeting in order to be responsive to issues and concerns raised by residents at the meeting.

Ms. Liz Calloway and Ms. Robin Westbrook, from the Water Resources Department, were co-facilitators for this meeting. City staff had hand-outs available to attendees outlining the "List of Various Alternatives" prepared by staff along with the "pros" and "cons" which staff had identified for each of the alternatives. Each of the alternatives was discussed individually and the facilitators outlined the "pros" and "cons" identified by staff. Following this, "pros" and "cons" from the public were discussed and any questions which were raised or problems which may be encountered were addressed by staff.

As follow up to the meeting, a "To Do List" of items was prepared. The items which were designated for City staff are being followed up with information mailed to the individuals which expressed interest in receiving additional information. This information was mailed out to residents on May 30, 1996, including the schedule for this item to be discussed by City Council at this worksession.

There were three outcomes from the meeting. These outcomes were items which City staff committed to follow up on or perform additional research on prior to taking this item to City Council. These outcomes are as follows:

- Remove existing rumble strips along Edgewood Road on each side of the Darcy Lane intersection;
- Convert the intersections of Edgewood Road/Darcy Lane and Edgewood Road/Hyannis Drive to 3-way stop;
- Convert the section of Edgewood Road from Hyannis Drive southward to University Heights to one-way with the direction of travel being northbound.

Public input portion of this meeting was extremely beneficial. In fact, the idea of considering the conversion of a short section of Edgewood Road to one-way was raised by a resident at the meeting. On May 17, 1996, two days following the meeting, City staff removed the rumble strips on Edgewood Road as requested by residents in the area.

At the neighborhood meeting, Mr. Spells requested Mr. Tom Byers with UNC-A to investigate the issue of converting the aforementioned section of Edgewood Road to one-way. During prior meetings and discussions, UNC-A had opted to not take a position on the traffic issue. However, this request is timely since UNC-A is undergoing the process of reviewing its Campus Master Plan. On June 10, 1996, he received a reply from Mr. Byers on behalf of UNC-A. In this reply, UNC-

A indicated that they are "reluctant to concur with a proposal for converting the Edgewood Road connection at the campus border to one-way traffic". As indicated in his letter, UNC-A felt that blocking access via Edgewood Road would constitute a major hindrance to students, staff and other participants that find it to be the most efficient route for access to the University. He reviewed a letter from Mr. Alyn Pruett with Wallace Roberts & Todd, Master Plan Consultants for UNC-A, outlining the concerns they have regarding this proposal. In Mr. Byers letter, he indicates that the University urges "that the established two-way traffic flow be maintained".

City staff has evaluated the requested outcomes from the neighborhood meeting, along with the concerns expressed by UNC-A. As previously indicated, the removal of the rumble strips along Edgewood Road on each side of Darcy Lane were an administrative function which staff has proceeded with action on this item. Likewise, early on as a part of the discussions of traffic problems along Edgewood Road, City staff felt that the conversion of the intersections on Edgewood Road/Darcy Lane and Edgewood Road/Hyannis Drive to a 3-way stop condition would assist to improve traffic and safety concerns raised by residents. The purpose of the proposal to convert the section of Edgewood Road from Hyannis Drive southward to University Heights to one-way with the direction of travel being northbound was proposed as a means of encouraging vehicular traffic to utilize alternate accesses into UNC-A. The indication that vehicles would travel south on Barnard Avenue, which connects to W.T. Weaver Boulevard, would not seem to be a frequent occurrence due to the travel distance. It would, however, encourage traffic to utilize a more direct access by using W. T. Weaver Boulevard. The other concerns raised by the Master Plan Consultants for UNC-A are either enforcement issues for vehicles traveling the wrong direction on a one-way street or can be addressed by additional signage to assist motorists. Therefore, staff would propose the designation of this section of Edgewood Road to one-way. This would allow UNC-A, residents along Edgewood Road, and motorists using Edgewood Road, along with City staff to evaluate any problems occurring as a result of this traffic change. He noted that this is not an irreversible situation and if problems do occur the City could move forward to reinstate the roadway to two-way as it currently exists.

City staff recommends that the City Council approve a resolution authorizing City staff to implement the necessary traffic control measures to convert the intersection of Edgewood Road/Darcy Lane and Edgewood Road/Hyannis Drive to 3-way stop and to convert the section of Edgewood Road from Hyannis Drive southward to University Heights to one-way with the direction of travel being northbound. City staff could move forward to make these changes and begin to observe travel along Edgewood Road and other streets serving the neighborhood and UNC-A to determine if problems arise. This will facilitate City staff addressing problems prior to the start of the Fall Semester at UNC-A.

Mr. James Cheeks, Traffic Engineer, and Mr. Spell answered various questions from Council.

Councilman Cloninger felt it was a good idea to at least experiment with the one way idea for perhaps six months.

A neighborhood resident stated that just having a 3-way stop will not help because the stop signs in the area are already not being obeyed. He hoped this proposal would not only deal with the safety concerns of their neighborhood, but also address safety concerns of the people on campus.

Ms. Patsy Reed, Chancellor of UNC-Asheville, spoke in opposition to the one-way section. She said that they have already asked their vendors not to use Edgewood Road with their trucks. The did support the use of the 3-way stop but have grave concerns about making that portion of Edgewood one-way. She explained that UNC-A is a large community and they (meaning students, staff, etc.) have not been notified of this proposal for their input. If Council decides, however, to proceed with the one-way section, she asked it not be started this summer. If the 6-month trial is started in the fall, she felt that specific criteria should be developed for monitoring.

A neighborhood resident said that they have tried to talk with UNC-A for years about the traffic problems in their neighborhood and have received no response. He supported the trial one-way traffic on that portion of Edgewood Road.

Police Chief Will Annarino said that the Police Department would be depending heavily on the UNC-A campus police for enforcement of this traffic change.

Vice-Mayor Field felt that perhaps UNC-A has been left out of some of the planning in this proposal. She felt that starting the one-way program in the fall would be a good idea, but preferred starting out with the 3-way stop proposal before making any one-way changes.

A resident of the area said that there would be no drastic change in the lifestyles for the students at UNC-A with the one-way section.

Mr. David Whitley, neighborhood resident, supported the one-way traffic change.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

STANDARDS FOR TELECOMMUNICATIONS TOWERS AND ANTENNAS IN ALL ZONING DISTRICTS

Ms. Julia Cogburn, Planning Director, said that this ordinance would establish regulations for telecommunications towers in all zoning districts within the jurisdiction of the City of Asheville.

The City's current zoning regulations have very few requirements addressing the siting of telecommunications towers and antennas. At the direction of City Council, the staff of the Planning & Development Department has conducted research and drafted a proposal for regulating such towers.

This draft ordinance proposes standards for the height, setback, lighting, and buffering of telecommunication towers and antennas along with other specifications. In early May these suggested standards were sent to representatives of the telecommunications industry as well as to citizens groups in Asheville for their review.

At the Planning & Zoning Commission ("Commission") meeting held on June 5, 1996, the Commission decided at that meeting to continue the meeting in order to provide an opportunity for staff to meet further with industry representatives to try to address any remaining concerns. Staff met with the industry representatives on June 11 and reviewed/reworked this ordinance in detail.

At their meeting on June 13, the Commission voted unanimously (4-0) to recommend this ordinance to Council.

She said that the words "antenna", "antenna, concealed", and "telecommunications tower" were added to the definition section in the zoning ordinance. She then proceeded to highlight for Council the following regulations:

A. Sec. 30-5-2.A. R-1 single family residential district. *Permitted uses.*; Sec. 30-5-3.A. R-2 low density residential district. *Permitted uses.*; Sec. 30-5-4.A. R-3 medium density residential district. *Permitted uses.*; Sec. 30-5-5.A. R-4 high density residential district. *Permitted uses.*; Sec. 30-5-6.A. R-5 residential district. *Permitted uses* .; Sec. 30-5-1.1 A. R-1A (single family) moderate density residential district. *Permitted uses.* of Appendix A of the Code of Ordinances of the City of Asheville be amended by inserting the following paragraph:

Antennas when attached to an existing non-residential structure provided the following requirements are met:

1. No antenna shall interfere with usual and customary radio and television reception excepting broadcast facilities as provided for in the regulations of the Federal Communications Commission (FCC).

2. All antennas must comply with FCC and Federal Aviation Administration (FAA) guidelines.

3. Antennas shall be restricted to the minimum standards of lighting required by the FAA. All antennas that require flashing lights by the FAA shall utilize a dual lighting system consisting of a white strobe light for daytime lighting and a red flashing light for nighttime lighting.

4. No telecommunications towers shall be located on top of buildings. Antennas located on top of buildings or other structures shall not exceed over 30% of the building height. In no event shall an antenna extend beyond the structure in any direction greater than 25 feet. All antennas placed on structures shall be concealed antennas.

5. No antennas shall be constructed in local historic districts or on the property on which a local historic landmark is located.

6. Telecommunications towers are prohibited in residential districts, however, telecommunications towers and antennas erected solely for a residential, non-commercial individual use such as residential television antennas, satellite dishes, or ham radio antennas are exempt from regulation.

B. Sec. 30-5-11.A.. CBD central business district. *Uses permitted.* of Appendix A of the Code of Ordinances of the City of Asheville be amended by inserting the following paragraph:

Antennas when attached to an existing structure provided the following requirements are met:

1. No antenna shall interfere with usual and customary radio and television reception excepting broadcast facilities as provided for in the regulations of the Federal Communications Commission (FCC).

2. All antennas must comply with FCC and Federal Aviation Administration (FAA) guidelines.

3. Antennas shall be restricted to the minimum standards of lighting required by the FAA. All antennas that require flashing lights by

the FAA shall utilize a dual lighting system consisting of a white strobe light for daytime lighting and a red flashing light for nighttime lighting.

4. No telecommunications towers shall be located on top of buildings. Antennas located on top of buildings or other structures shall not exceed over 30% of the building height. In no event shall an antenna extend beyond the structure in any direction greater than 25 feet. All antennas placed on structures shall be concealed antennas.

5. No antennas shall be constructed in local historic districts or on the property on which a local historic landmark is located.

C - Sec. 30-5-7.A. CR commercial regional district. *Uses permitted.*; Sec. 30-5-8.A. CS commercial service district. *Uses permitted.*; Sec. 30-5-9.A. CG commercial general district. *Uses permitted.*; Sec. 30-5-10.A. CH commercial highway district. *Uses permitted.*; Sec. 30-5-12.A. OI office-institutional district. *Uses permitted.*; Sec. 30-5-13.A. LI light industrial district. *Uses permitted.*; Sec. 30-5-14.A. HI heavy industrial district. *Uses permitted.*; Sec. 30-5-16.A. NC neighborhood commercial district. *Uses permitted.* of Appendix A of the Code of Ordinances of the City of Asheville shall be amended by adding the following paragraph:

Telecommunications towers and antennas provided the following requirements are met:

1. No telecommunications tower or antenna shall interfere with usual and customary radio and television reception excepting broadcast facilities as provided for in the regulations of the Federal Communications Commission (FCC).

2. All telecommunication towers and antennas must comply with FCC and Federal Aviation Administration (FAA) guidelines.

3. Telecommunications towers and antennas shall be restricted to the minimum standards of lighting required by the FAA. All towers that require flashing lights by the FAA shall utilize a dual lighting system consisting of a white strobe light for daytime lighting and a red flashing light for nighttime lighting.

4. Minimum setbacks for telecommunications towers shall be in accordance with the setback requirements set forth in the development standards for this district provided that the buffering requirements set forth in 5., below, may be met. Additionally, telecommunications towers must setback from any residentially zoned properties a distance equivalent to the height of the tower being erected or 125 feet, whichever is greater.

5. Telecommunications towers shall be buffered from adjacent properties pursuant to the requirements set forth in Sec. 30-3-14.B.1. regardless of adjacent zoning district classifications or uses.

6. No telecommunications towers shall be located on top of buildings. Antennas located on top of buildings or other structures shall not exceed over 30% of the building height. In no event shall an antenna extend beyond the structure in any direction greater than 25 feet. All antennas placed on structures shall be concealed antennas.

7. No telecommunications towers or antennas shall be constructed in local historic districts or on the property on which a local historic landmark is located. Telecommunications towers shall not be constructed within 1000 feet of any local historic district.

8. Telecommunications towers shall not be constructed unless the company erecting the tower has general liability coverage of at least $1,000,000. Each company shall provide the city with the name of their insurance provider each time an application is submitted to construct a tower.

9. Telecommunications towers shall have a flat gray or galvanized finish.

10. Telecommunications towers over 125 feet in height shall be constructed to provide for at least one additional user. Broadcast AM towers are exempt from this requirement.

11. No two telecommunications towers shall be constructed within 1320 feet of each other unless documentation is provided to the Department of Planning and Development to show that co-location on towers within the 1320 feet is not technically feasible. Broadcast AM towers are exempt from this requirement.

12. No telecommunications tower shall be constructed without first looking at other possibilities within 1320 feet for location of an antenna on structures other than a tower. Such structures include billboards, church steeples, etc.

13. Monopole-type telecommunications towers are encouraged and shall receive a reduction in setback distances of up to 50% of the setback requirement stated in item 4 above. In no event shall the setback be less than 125 feet.

14. The base of the telecommunications tower along with any individual guy wires shall be enclosed by a fence a minimum of 8 feet in height.

Ms. Cogburn noted that there is still one outstanding issue left. That issue is that the telecommunications industry would like to have the location in residential districts for the telecommunications towers an option that will be open for them, since at this time the towers are not permitted. The Planning & Zoning Commission ("Commission") and staff did not feel that not permitting the towers in residential districts would limit their capabilities to serve the community. She noted that any denial of telecommunications tower permits will be an automatic appeal to City Council.

City Attorney Slawter responded to questions concerning liability insurance.

Councilman Cloninger thanked the staff for their work on this proposed ordinance, but personally felt it needed to be more strict in terms of where they can locate, their size and appearance. He wanted to be sure the towers were less conspicuous and less intrusive. He wondered if staff could amend the ordinance to put in incentives for the industry to place the antennas on other structures, such as billboards and church steeples.

Ms. Bonnie Newell, representative of BellSouth, and Ms. Cogburn answered various questions from Council regarding the need for telecommunications towers, the height concerns, the co-location advantages, the number of towers already in Asheville and the lighting requirements at the top of the towers.

Councilman Hay also expressed interest on placing height restrictions on the towers and adding incentives to the ordinance to make it more advantageous to co-locate on towers.

Councilman Skalski suggested a provision be included in the ordinance regarding density.

It was the consensus of Council to proceed with appropriate action at the next Council meeting.

CONSENT:

Bids regarding Fire Tactical Response Midi-Pumper

Summary: Sealed bids were received to furnish one tactical response midi pumper for the Fire Department. Three bids were received. This unit will be a replacement for Vehicle #MT945. Staff recommends that the award be made to the low bidder, Chief's Fire and Rescue Inc., Jefferson, N.C., in the amount of $150,218 for the purchase of one 1997 Freightliner cab and chassis with a 3-D Model Midi Pumper Rescue Squad body. The following bids were received:

Vendor	Net Cost
Chief's Fire & Rescue Inc., Jefferson, N.C.	$150,218
Hackney & Sons Inc., Washington, N.C.	$150,285
Emergency Vehicles, Inc., Lake Park, Florida	$166,200

Funds for this purchase are appropriated in Account Code 20-420-40-471-00-5741.

Bids regarding Station Alerting System

Summary: Sealed bids were received to purchase a station alerting system for the Fire Department. Three bids were received.

The station alerting system will be an addition to the existing communication center console which is maintained under a maintenance agreement with Motorola Inc., Installation of the system alerting system will require a portion of that console to be dismantled and programmed to interface with the new system. The Motorola maintenance agreement requires all work performed on the console to be performed by a factory authorized Motorola Service Center. Bidders were informed of these requirements in the bid specifications.

The low bidder, Whitley's Communications, Asheville, N.C., is not recommended to receive the award because they are not authorized by Motorola to perform this work, and no provisions were included in their proposal to furnish installation of the system through an authorized service agent.

Staff recommends that the award be made to the second low bidder meeting all requirements of the bid specifications, Communication Service Asheville, N.C., in the amount of $35,566.50 for the purchase and installation of a "Zetron" station alerting system. The following bids were received:

Vendor	Net Cost
Whitley's Communications, Asheville, N.C.	$33,995.00
Communication Service, Asheville, N.C.	$35,566.50
Asheville Communications, Asheville, N.C.	$37,967.00

Funds for this purchase are appropriated in Account Code 20-420-40-471-00-5741.

Outdoor Special Events Package

Mr. Jeff Joyce, Program Supervisor, said that the purpose of this resolution is to approve the "Outdoor Special Events Package" for use by all City Departments. This package provides our customers, the general public, with all the information they need in preparing for the conduction of an Outdoor Special Event.

Any group that wishes to conduct an Outdoor Special Event in the City of Asheville presently must go to as many as five different departments of the City in order to obtain permission. This package provides Event Organizers with all the specific information, permits, and instructions that will help them make the Event a success.

The Parks and Recreation Department, along with the Special Events Task Force, requests that the Outdoor Special Events Package be approved for immediate use by City departments.

Budget amendment re: Livingston Street Ballfield Lights

Summary: Currently, the ballfield lights at Livingston Street Field are well below the standards set by Illuminating Engineering Society and, therefore, present a safety hazard to participants within the Adult Softball Program.

The ballfield lights at Livingston Street are over 20 years old and have deteriorated to the point where the illumination level has fallen below recommended safety standards established by Illuminating Engineering Society. In addition, the wooden poles at the ballfield continue to deteriorate and also represent a safety problem due to 20 years of wear and tear. Because of these problems, we are not able to adequately program ball games in the late evening hours in order to provide safe conditions for the participants in our programs. The estimated cost based upon past experience with the relighting of ballfields has been approximately $60,000 per field.

The Parks and Recreation staff recommends that $60,000 be transferred from the Building Fund Contingency into capital improvement budget to replace the lights at Livingston Street Ballfield.

Budget Amendment re: Fuel Price Escalation

Summary: This budget amendment, in the amount of $65,000, is to reflect increases in the cost of the City's motor vehicle fuel purchase.

The Fiscal Year 1995-1996 Fleet Management Budget was developed using an average price per gallon of $0.90 for motor vehicle fuel. Throughout the year we have seen the price increase for all the types of fuel we purchase. We are now paying $0.922 for kerosene, $1.134 for unleaded, and $0.911 for diesel. The attached budget amendment increases the Fleet Management appropriation for the purchase of fuel by $65,000 (from $557,500 to $622,500) and provides the offsetting revenue of $65,000 by an increase in the Fleet Management Charges account. These changes should permit continued fuel purchases through the balance of the fiscal year.

Budget amendment relative to the Buncombe County Drug Commission

Summary: The Buncombe County Drug Commission has submitted a request to the City Council Outside Agency Committee for $15,000 as the City's contribution to the funding of the Drug Commission's work in support of the Mayor's Drug Forum.

The Council Outside Agency Committee supports this funding request and recommends to the City Council that the request e funded in the current year.

This budget amendment establishes the appropriation to fund the request and transfers $15,000 from the General Fund contingency. The General Fund contingency balance before this appropriation is $18,031.

Establish Fair Reuse Value for Certain Disposal Parcles in the East End/Valley Street Redevelopment Area

Summary: Certain disposal parcels in the East End/Valley Street and Head of Montford have been appraised, the appraisals reviewed and it is now necessary to establish the Fair Reuse Value in order to market the property.

Disposal Parcel 9A is located on Dundee Street in the East End and due to its small size is most likely to be sold to an adjacent owner. Disposal Parcels 6B and 6C are located on Montford Avenue in Montford, comprising approximately 1.4 acres and zoned for commercial development. Tract 3 is located on Short Street in Montford and due to its small size is most likely to be sold to an adjacent owner.

Each Disposal Parcel was appraised by Francis Naeger, MAI. The appraisals were reviewed by Benjamin T. Beasley, MAI, who concurred and recommended the appraised values as the Fair Reuse values.

Disposal Parcel #	Approved Use	Appraisal
6B	Commercial	$179,500
6C	Commercial	$ 69,400
Tract 3	Residential	$ 3,300
East End - 9A	Residential	$ 2,000

Designation of Asheville's Agent - FEMA

Summary: The Public Works Department is required to submit an updated "Designation of Applicant's Agent" form with each request for reimbursement of costs associated with storms covered under the Federal Emergency Management Act. This is for the storms of January 6-9 and 12-14, 1996.

The Public Works staff recommends that Mark Combs, Director of Public Works, be designated as the Applicant's Agent.

Municipal Agreement for McDowell Street Viaduct

Summary: This agreement with N.C. Dept. of Transportation ("NC DOT") will outline the responsibilities of the City and NC DOT for replacement of the McDowell Street viaduct. The City will be responsible for making necessary changes, relocation and adjustments to any public or privately-owned utility or any municipally-owned utilities. Adjustments to utility manholes of two feet or less will be made by NC DOT. The City is required to enforce the traffic operating controls. The bridge design includes outriggers and a conduit system for mounting lights for the poles and fixtures proposed for the project.

Project plans have been completed and the right-of-way has been acquired. At present, all issues with the bridge replacement have been resolved by the NC DOT, the Historic Resources Commission ("HRC") and

the N.C. Historical Resources Commission. A Certificate of Appropriateness is pending approval from HRC.

City Clerk directed to advertise an offer of purchase for upset bids regarding disposal of 17.282 acres of vacant land off Ascension Drive

Summary: The City has received an offer from Cornerstone Realty Group Incorporated in the amount of $200,000 for the purchase of 17.282 acres of vacant land off Ascension Drive. This action will advertise for upset bids.

The City is the owner of record of a 17.282 acre tract of vacant land off Ascension Drive adjacent to the Meadows Apartments. The property has remained vacant since the City acquired it in 1981. The City has received, from Cornerstone Realty Group Inc. an offer to purchase this tract of land. As the current owner of Meadows Apartments, Cornerstone Realty Group Inc. is an REIT corporation and intends to construct market rate apartments on the property.

Easement in Highland Place

Summary: This resolution authorizes the Mayor to execute a non-warranty deed relinquishing an easement owned by the City now Highland Place, a former roadway that once provided access to the former residence of William Quarterman.

On May 25, 1979, the N.C. Dept. of Transportation conveyed to the City of Asheville a deed of easement 20 feet in width for the purpose of constructing, locating, maintaining and repairing a sanitary sewer and/or water line across an access roadway leading to the former residence of William Quarterman known as Highland Place. Thereafter, the Department discovered that it had, by mistake, conveyed to the City the entire roadway in Deed Book 1219 at Page 59. In Deed Book 1400 at Page 30, the City of Asheville corrected that mistake by preparing a deed of correction whereby the City reconveyed the entire roadway to the Department, reserving for itself a joint use easement over the roadway for use as a fire lane in addition to the purpose of constructing, locating, maintaining and repairing a sanitary sewer and/or water line easement with a width of 20 feet. The roadway (as described in Deed Book 1400 at Page 30) is not open on the ground. The easement has not, and continues not, to be utilized by the City of Asheville for fire purposes nor by the Asheville/ Buncombe Water Authority for water line purposes.

Appropriate City staff have been consulted and neither the Fire Department nor the Water Resources Department, through the Asheville/Buncombe Water Authority, utilize the easement and anticipates no future use of such easement to the extent it crosses Mr. and Mrs. Candler's property.

Staff recommends that the City relinquish the easement to the extent it crosses Mr. and Mrs. Candler's property.

Janitorial Services for City Hall

Summary: The City, through the Parks & Recreation Department, periodically solicits bid proposals for janitorial services for City Hall using the informal bid process. Bid specifications are distributed along with the advertisement for bids so that all bid proposals reflect the same scope of work. The informal bid process was engaged in April,

1996. A total of 71 advertisement for bid letters were sent out, including 25 to certified minority businesses registered with the City. Advertisement letters were also sent to the Asheville Business Development Center, the City's Minority Business Office and other similar business resource organizations. Seven bid proposals were received, including five from certified minority businesses. The three lowest bidders were qualified and are listed below:

Firm Name and Location	Base Bid
Mr. D's Cleaning, Asheville, N.C.	$35,040
RCL Carpet Cleaning & Janitorial Service, Asheville, N.C.	$46,000
L&M Janitorial Services, Asheville, N.C.	$49,995

After review of these bid proposals and the qualification process of the bidders, it was determined that Mr. D's Cleaning would be selected as the lowest qualified bidder and City staff seeks Council's approval to enter into a contract to perform janitorial services for the City Hall building for one year for the bid amount of $35,040.

Skyland Station Design Contract

Summary: Pursuant to its lease agreement with the Skyland Fire Department, the City of Asheville is ready to retain an architect for design of a new fire station to serve the South Asheville area.

On November 21, 1995, the Council approved a lease agreement with the Skyland Fire Department, through which the City would hold a 99-year lease on land owned by the Skyland Fire Department on which to build a new fire station for the South Asheville area.

The Skyland Fire Department is also building a new fire station on the same site. It was anticipated in the lease agreement (z) that, although on separate pieces of property, the Skyland and Asheville fire stations would be contained in the same building shell, and (b that, for the purposes of economy and compatibility, the underlying design of each fire station would be the same. It is the opinion of the Fire Chief that these interests can best be addressed by retaining Barney P. Woodard, the architect that Skyland has retained, to perform the architectural services required for Asheville's fire station.

Mr. Woodard has proposed a standard fee of 7.5% of estimated construction costs of $350,000. The City's estimated construction cost has been included as part of the City's Capital Improvement Program for this (and succeeding) fiscal years.

Next community meeting

Summary: In order to continue Council's commitment to community oriented government, staff recommends City Council hold their next community meeting on Tuesday, July 30, 1996, at 7:00 p.m. in the Shiloh Recreation Center.

It was the consensus of Council to proceed with appropriate actions at the next Council meeting on the Consent Agenda items.

BOARDS AND COMMISSIONS

It was the consensus of Council to appoint Scott Jarvis as the Chairman of the Asheville Downtown Commission, at their next formal meeting.

ORIENTATION PROGRAM FOR NEWLY APPOINTED BOARD & COMMISSION VOLUNTEERS

Vice-Mayor Field, Chair of the City Council Boards & Commissions Committee, welcomed all present and briefed them on what would be required of them as City representatives on the various boards and commissions. City staff then met with their individual members.

OTHER BUSINESS

Additional Budget Issues

Mr. C.D. Williams, resident on W.T. Weaver Boulevard, voiced concern over the new sidewalk to be installed on the south side of W.T. Weaver Boulevard.

Ms. Beth Maczka, Executive Director of the Affordable Housing Coalition, talked about the need for additional resources for housing code inspections. City Manager Westbrook said that he understands the importance of enforcement of the Housing Code and will follow Council's direction in making sure that there are enough resources in order to effectively enforce the Code.

Councilman Skalski passed out a list of 12 questions/concerns/ comments regarding the budget and with the help of the City Manager, City staff and other Council members, each item was addressed.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:55 p.m.

Magdalen Bullock
CITY CLERK

MAYOR

Tuesday - June 25, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Hay gave the invocation.

MAYOR'S CUP RAFT RACE

Councilman Worley proudly announced that the City of Asheville finished in 4th place in the Mayor's Cup Raft Race held on June 23, 1996.

Mayor Martin expressed his thanks to Councilmen Sellers and Worley for their participation, along with Mountain Xpress writer Margaret Williams and Finance Director Larry Fisher who were recruited to help in the raft.

I. PROCLAMATIONS:

A. RESOLUTION NO. 96-104 - RESOLUTION OF APPRECIATION TO LARRY A. FISHER, FINANCE DIRECTOR

City Manager Westbrook read the resolution stating that Larry Fisher has been employed by the City of Asheville for 26 years and has requested retirement from his position as Finance Director. Mayor Martin expressed City Council's appreciation to Larry for his service to the City of Asheville and its citizens.

Resolution No. 96-104 was adopted by acclamation.

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B. PROCLAMATION PROCLAIMING JUNE 26, 1996, AS "OLYMPIC TORCH RELAY DAY"

Mayor Martin read the proclamation proclaiming Wednesday, June 26, 1996, as "Olympic Torch Relay Day" in the City of Asheville. He presented the proclamation to Mr. George Pfeiffer and Glenn Wilcox who briefed the Council on some activities that would be taking place during the day.

C. PROCLAMATION PROCLAIMING JULY 1996, AS "RECREATION AND PARKS MONTH"

Mayor Martin read the proclamation proclaiming the month of July, 1996, as "Recreation and Parks Month" in the City of Asheville. He presented the proclamation to Mr. Bill Estes, Chairman of the Recreation Board, who briefed the Council on some activities that would be taking place during the month. Mr. Estes also said that under the leadership of Parks & Recreation Director Irby Brinson, the City of Asheville has a lot to be proud of in terms of parks and recreation.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING ESTABLISHING STANDARDS FOR TELECOMMUNICATIONS TOWERS IN ALL ZONING DISTRICTS

B. PUBLIC HEARING TO REDUCE THE FRONT BUILDING SETBACK REQUIREMENTS FOR NON-RESIDENTIAL USES IN R-1A, R-2, R-3, R-4 AND R-5 ZONING DISTRICTS

ORDINANCE NO. 2290 - ORDINANCE AMENDING APPENDIX A - ZONING ORDINANCE OF THE CITY OF ASHEVILLE

City Attorney Slawter recommended that these two public hearings be combined because the ordinance amendments for both matters are lengthy and have to be set forth in their entirety and it would be simpler to combine the two matters and have one vote - making both amendments at the same time. He said it would be cheaper with our recodifiers to do it this way as well.

Mayor Martin opened the public hearing at 5:17 p.m.

City Clerk Burleson presented the notices to the public setting the time and date of the public hearings.

Ms. Julia Cogburn, Planning & Development Director, explained the telecommunications tower regulation draft by saying that this ordinance is proposed in order to establish regulations for telecommunications towers in all zoning districts within the jurisdiction of the City of Asheville.

The City of Asheville's current zoning regulations have very few requirements addressing the siting of telecommunications towers. At the direction of City Council, the staff of the Planning & Development Department has conducted research and drafted a proposal for regulating such towers.

This draft ordinance proposes standards for the height; setback; lighting; and buffering of telecommunication towers along with other specifications. In early May these suggested standards were sent to representatives of the telecommunications industry as well as to citizens groups in Asheville for their review.

At the Planning and Zoning Commission meeting on June 5, 1996, the Commission reviewed the staff draft. It was decided at that meeting to continue the meeting to Thursday, June 13, 1996, in order to provide an opportunity for staff to meet further with industry representatives to try to address any remaining concerns.

As a result of the worksession held on June 18, 1996, City Council asked staff to look further into placing height restrictions on the towers and adding incentives to the ordinance to make it more advantageous to co-locate on towers.

Based upon those comments, she then reviewed the following amendments to the draft ordinance Council had before them:

1. Amend Sections 15, 16, 17, 18, 20, 21, 22 and 23 of the draft ordinance to delete "telecommunications towers" as permitted uses in the CR (30-5-7.A.), CS (30-5-8.A.), CG (30-5-9.A.), CH (30-5-10.A.), OI (30-5-12.A.), LI (30-5-13.A.), HI (30-5-14.A.) and NC (30-5-15.A.) districts, but keep the language which allows "antennas" as permitted uses, subject to certain conditions in these same zoning districts, but using those conditions in the draft ordinance which apply to antennas in the residential districts.

2. Include new sections in the draft ordinance to amend Sections 30-5-7.B (CR), 30-5-8.B. (CS), 30-5-9.B. (CG) and 30-5-10.C. (CH) of the Code to allow telecommunications towers as a conditional use in those zoning districts.

3. Include a new section in the draft ordinance to add a new Section 30-5-12.C. (OI) to the Code to allow telecommunications towers as a conditional use in the OI zoning district.

4. Include a new section in the draft ordinance to amend Section 30-5-13.F. (LI) of the Code to allow telecommunications towers as a conditional use in the LI zoning district.

5. Include a new section in the draft ordinance to add a new Section 30-5-14.F. (HI) to the Code to include the conditional uses now set forth in Section 30-5-14.A.15. and 16. of the Code and to include telecommunications towers as a conditional use in the HI zoning district.

6. Include a new section in the draft ordinance to add a new Section 30-5-16.C. (NC) to the Code to allow telecommunications towers as a conditional use in the NC zoning district.

7. Include a new section in the draft ordinance to add a new Section 30-7-1.Q. to the Code which includes the 14 conditions set forth previously in the draft ordinance where telecommunications towers were to be allowed as permitted uses in the CR, CS, CG, CH, OI, LI and HI zoning districts and adding three new conditions as follows:

   (15) The Board of Adjustment may require any other conditions found necessary to ameliorate the impact of the tower on the adjacent properties and uses. Such conditions shall include, but are not limited to: the height of the tower; the construction or type of tower; and co-location of the antennae and facilities of different parties on a single tower.

   (16) No telecommunications towers shall be permitted which exceeds 300 feet in height.

   (17) Telecommunications towers which have remained inactive for a period of 180 days or longer shall be removed by the owner of the tower. In the event that the City determines that a tower has not been removed pursuant to this requirement, the City may provide the owner of the tower with a written notice sent by certified mail, return receipt requested, or by hand delivery or by any other method allowed under the North Carolina Rules of Civil Procedure for Service, that the tower or antenna should be removed within 90 days of receipt of that notice.

8. In all Number 2 conditions in all of these sections, it needs to be amended to read: "All telecommunications towers and antennas must comply with FCC and Federal Aviation Administration (FAA) guidelines. The telecommunications towers and antenna owners shall provide the City each year with a copy of any FCC and FAA license required."

9. In all Number 3 conditions which deal with lighting that are found throughout the ordinance, it needs to be amended to read: "Towers that do not require FAA compliant lighting shall be equipped with at least one steady burning red obstruction lamp meeting FAA specification L-810 in order to alert helicopter ambulances that approach and depart at low altitudes to the presence of such towers."

She said the first two amendments basically take telecommunication towers from being a permitted use in those districts to becoming a conditional use in those districts. That means that they are subject to certain conditions that would also be subject to review before the Board of Adjustment. The Board of Adjustment would be looking at whether or not those conditions had been met, as well as being allowed to add any additional

conditions that they saw fit as appropriate for the particular location of that tower.

Upon inquiry of Councilman Cloninger, Ms. Cogburn said that there is a total prohibition on towers in all residential areas, noting that antennas are allowed subject to certain requirements. All towers must sit back at least 125 feet from a residential district as well.

Councilman Skalski noted that in Roanoke, they have a height restriction of 45 feet on all structures erected in the City. Ms. Cogburn said that basically that has the effect of prohibiting towers altogether and that the industry has had to turn to antennas. That is an option Council can look at, but staff felt that was too prohibitive in nature.

When Councilman Skalski asked about fees associated with the tower construction, Ms. Cogburn said that there is a $100 conditional use permit fee to appear before the Board of Adjustment. City Manager Westbrook also said that if the telecommunication industry wanted to put the tower on City property or publicly owned property, we would try to negotiate a rental fee for the use of public property.

Councilman Skalski suggested some sort of regulatory fee structure and/or incentive for the industries to co-locate the antennas. Along those lines, Vice-Mayor Field wondered if the permit fee could be attached to the height - so the higher the height, the larger the permit fee.

Upon inquiry of Councilman Hay about the height restrictions, Ms. Cogburn said that in no instance could the Board of Adjustment approve a tower over 300 feet. The Board of Adjustment hearing would be subject to public notice for those who are concerned in the immediately surrounding area. They could come in and comment as to what additional conditions might make it blend in better in that particular area.

Fire Chief John Rukavina responded to Councilman Hay's question about the lit towers. The Fire Chief said that they are proposing the least intrusive light in the catalog of FAA lighting requirements. It doesn't flash - it's simply a steady burning light that would let a helicopter ambulance know that there is a tower there.

Mr. Scott Smith, Site Acquisition Administrator for GTE, answered various questions from Council. He said that each tower costs $750,000 to construct. He explained that as the system matures, the tower heights will be reduced, but you will need more of them and they'll need to be closer together. He said that most of the towers now are 150 to 180 feet tall. He said that typically what they pay in other cities where they construct the towers is a fee based on the actual cost of construction of the tower.

Upon inquiry of Councilman Hay, Mr. Smith said that the tallest tower in Buncombe County is 190 feet and they have no plans to build any taller than that.

When Vice-Mayor Field asked about any clearance around the tower in case one falls, Ms. Cogburn said that the setback is 125 feet or the height of a tower from a residential district. She said that they have not proposed that type of a setback in any of the other districts. Mr. Smith also responded by saying that the towers are virtually designed not to fall; however, they can be designed to buckle a certain way but not fall.

In response to Councilman Cloninger, Mr. Smith said that as technology advances, the industry will be able to put up shorter towers. Actually, in some places, they are lowering their antennas on the taller towers. In fact, they perceive a time when the towers will be no taller than a light pole and

the equipment building could be below the ground. He noted that sometimes when the occasion arises that an antenna can be lowered, it might be better not to reduce the tower height because a co-locator might need that height.

When Councilman Worley asked if we have made certain that there is no federal regulation that somehow preempts a portion of our ordinance, Ms. Cogburn said that our legal staff has looked at this ordinance in those terms and they have no concerns.

Upon inquiry of Councilman Hay, Ms. Cogburn said that if changes are made to the towers (not simple maintenance) would they have to comply with this ordinance.

Mr. Phil Davis, representative of Citizens for Media Literacy, asked that (1) City Council hold a public hearing on this very comprehensive policy; (2) higher fees be considered in this multi-million dollar industry; and (3) public access to the tower usage. He asked that adoption be delayed.

Council explained to Mr. Davis that this is the public hearing and there is a sense of urgency in getting this ordinance in place. As it stands right now, the City has no control over the regulation of these towers, but if in the future amendments need to be made, they can be.

Upon inquiry of Ms. Leni Sitnick, Ms. Cogburn said that the ridge law does specifically exempt towers, however, she did not think that was an issue here.

Councilman Skalski asked that Council postpone adoption of this ordinance in order to give staff time to develop a fee structure, some sort of incentives, and the element of use and density. He was uncomfortable with adoption of this ordinance since Council has only had it a short time.

Mayor Martin said that the Council's Fees and Charges Committee will have the charge to look at the fee structure and didn't favor holding off adoption of the ordinance until they meet and give their recommendations.

Ms. Amy Richardson, Zoning Coordinator for BellSouth, voiced concern about the towers being a conditional use and the conditions that the Board of Adjustment will be allowed to place on those towers, specifically the height restrictions. She suggested adoption of the ordinance be delayed.

Ms. Richardson asked if they would have to come in and get another conditional use permit if they were to co-locate. Ms. Cogburn said she would research that matter a little further and if the ordinance needed to be amended, she would bring that back to Council.

Mr. Smith asked that Council postpone taking action on this ordinance until a final draft could be drawn up and reviewed by the telecommunications towers industry.

Mr. Mike Matteson, Urban Planner, briefed Council on the proposed amendments in this ordinance which would reduce the front building setback requirements for non-residential uses in the R-1A, R-2, R-3, R-4 and R-5 zoning districts; increase the front setback requirements for utility substations in all of the residential zoning districts; revise the definition of public utility; add or clarify height restrictions in the R-1A, R-1 and R-2 zoning districts; clarify lot size increase requirements for multi-family uses in the R-2 zoning district; and remove the spacing requirements for family care homes in R-1, R-2, R-3, R-4 and R-5 zoning districts.

At their May 28, 1996 meeting, City Council approved a wording amendment reducing the front setback requirement for non-residential uses in the R-1

zoning district. This new wording amendment would reduce the front setback requirement for non-residential uses in the remaining residential zoning districts to be the same as that required for residential uses.

At their June 5, 1996 meeting, the Planning and Zoning Commission voted unanimously to approve this proposed wording amendment.

Councilman Skalski stated that he did not support the portion of the draft ordinance regarding regulation of telecommunications towers; however, he did support the ordinance amendments to reduce the front building setback requirements for non-residential uses in the R-1A, R-2, R-3, R-4 and R-5 zoning district.

Mayor Martin closed the public hearing at 6:14 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2290, with the amendments outlined above by Ms. Cogburn. This motion was seconded by Vice-Mayor Field.

Councilman Hay understood the urgency of getting regulations in place quickly but was still concerned about the height of the towers. Since the industry feels that 180 feet is about as high as they need to build, then why not limit the height to 180 in our ordinance. If, in the future, Council sees a need to raise that height restriction, the ordinance can be amended. He offered an amendment to the motion that the height of the towers be limited to 200 feet, instead of 300 feet.

Vice-Mayor Field stated that there are other kinds of towers that might be affected by this height restriction, like radio and television towers. Ms. Cogburn said that Planning staff did talk with a consultant that works with radio and television companies in terms of the siting. He felt that 200 feet was not an issue primarily because typically inside the City limits they will use the dishes on tops of buildings and their towers would be located further away from the city itself.

Mr. Clay Dover, representative of BellSouth, said that height restriction is a little bit of a problem. There are some areas that the industry may want to erect a new tower that is away from anything, perhaps in a canyon, and it may need to be over 200 feet to bring itself up above the elevation of the terrain. He felt that restricting it to 200 feet may be of some concern.

Ms. Cogburn said that the Board of Adjustment would not be able to vary the height restrictions.

Councilman Cloninger amended his motion to adopt Ordinance No. 2290 with the amendments outlined above by Ms. Cogburn and placing a 200 feet height restriction on towers. Vice-Mayor Field accepted his amended motion.

On a roll call vote of 6-1 (with Councilman Skalski voting "no"), Ordinance No. 2290 passed on its first and final reading.

C. **PUBLIC HEARING TO DEFINE RECYCLING COLLECTION CENTERS; IDENTIFY RECYCLING COLLECTION CENTERS AS A CONDITIONAL USE IN CERTAIN NON-RESIDENTIAL ZONING DISTRICTS; AND ESTABLISH CONDITIONS FOR THE DEVELOPMENT OF RECYCLING COLLECTION CENTERS**

ORDINANCE NO. 2291 - ORDINANCE AMENDING THE ZONING ORDINANCE TO DEFINE RECYCLING COLLECTION CENTERS; IDENTIFY RECYCLING COLLECTION CENTERS AS A CONDITIONAL USE IN CERTAIN NON-RESIDENTIAL ZONING DISTRICTS; AND ESTABLISH CONDITIONS FOR THE DEVELOPMENT OF RECYCLING COLLECTION CENTERS

Mayor Martin opened the public hearing at 6:21 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that at the Planning & Zoning Commission ("Commission") meeting on June 5, 1996, the Commission voted unanimously to recommend approval of an amendment to the Asheville Code of Ordinances which would: define recycling collection centers; identify recycling collection centers as a conditional use in certain non-residential zoning districts; and establish conditions for the development of recycling collection centers.

Recycling collection centers are currently not addressed in the city's zoning ordinance. As recycling becomes more a part of our daily lives, the need for recycling centers will increase. Standards are needed to govern the location of the collection centers to assure that they do not impose on adjacent properties or create problems for the community. The proposed ordinance amendments address potential problems created by recycling collection centers by designating certain zoning districts in which they can locate and establishing certain standards for their development. The centers would be permitted as a conditional use in the commercial general, commercial highway, commercial service, commercial regional, and light industrial zoning districts. Standards regulating setbacks, screening, and containment of the recycling collection center are established by the proposed ordinance. As a conditional use, the plans for the collection centers would be reviewed by the Board of Adjustment to assure that the center would comply with the established standards. All existing facilities will be grandfathered in.

The proposed ordinance was reviewed by the Commission at their May 1 meeting. Revisions were made based upon the comments of Commission members and resubmitted to the Commission at their June 5 meeting. At this meeting, the proposed amendment was recommended for adoption by City Council.

The Commission has unanimously recommended approval of the proposed ordinance amendment as does the Planning and Development Department staff.

Mayor Martin closed the public hearing at 6:24 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Skalski moved for the adoption of Ordinance No. 2291. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2291 passed on its first and final reading.

D. **PUBLIC HEARING TO REZONE THREE PARCELS IN THE ROCK HILL PLACE AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL**

ORDINANCE NO. 2292 - ORDINANCE AMENDING THE ZONING OF THREE PARCELS IN THE ROCK HILL PLACE AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-5 RESIDENTIAL

Mayor Martin opened the public hearing at 6:26 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Erin McLoughlin, Urban Planner, said that a public hearing was held on May 28, 1996, to rezone seven parcels off Rock Hill Road from R-3 Medium Density Residential to R-5 Residential. As a result of an error by the Asheville Citizen-Times, the legal ad which ran only contained four of the seven lots. The City Attorney's Office felt it would be in the City's best interest to hold another public hearing for the three lots left out of the original legal ad.

She reminded the Council that the Planning staff received a request to rezone seven parcels, approximately 10 acres, off of Rock Hill Road from R-3 Medium Density Residential to R-5 Residential. The properties are located north of Rock Hill Road, bordering Rock Hill Place. R-3 is a medium density residential district which allows 16 units per acre. R-5 is a medium density residential district with allows 10 units per acre and also allows manufactured homes on single family lots. The current land use is predominately manufactured homes. The 2010 Plan calls for low density residential. One person voiced their opposition to this rezoning at the May 1, 1996, Planning & Zoning Commission meeting.

At the Planning & Zoning Commission meeting, the Commission voted unanimously to approve the rezoning request. The Planning staff recommended approval of the rezoning also.

Mayor Martin closed the public hearing at 6:27 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2292. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, Ordinance No. 2292 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 22

E. **PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 349 LONDON ROAD**

ORDINANCE NO. 2293 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 349 LONDON ROAD

Mayor Martin opened the public hearing at 6:28 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Bob Hixson, Director of Building Inspections, said that 349 London Road is a dilapidated structure. The owner Nellie Hunsucker have not responded to the Order of the Director Designee of the Building Safety Department to repair or demolish this structure. 349 London Road was inspected by Building Safety Department staff on January 9, 1995. Inspector Dennis Treadway found the following conditions, which have been documented by still photographs and video tape:

- The dwelling walls and roof are structurally unsound.
- The dwelling has no operational electrical, or plumbing systems.
- The dwelling is abandoned and being occupied by vagrants.

Inspector Dennis Treadway sent a correction order to the property taxpayer of record on 1/9/95. There was no response. A formal hearing was then scheduled and held on 349 London Road and no one attended. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the owner Nellie Hunsucker to repair or demolish 349 London Road within 30 days on 11/1/95. As of this date, no action has been taken by the owner of legal record.

The present fair market value (house and land) is $1,700. The property without the house on it is $7,716. The cost of rendering the dwelling fit for human habitation is $41,162. The City's estimate to demolish the house, site clearing, grass seed application and refuse disposal is $8,500.

N.C.G.S. 160.A-443(5) authorizes the City Council to direct by ordinance the demolition of 349 London Road subsequent to failure of the owner Nellie Hunsucker to demolish or repair as described above, N.C.G.S. 160A-443(6) authorizes placement of a lien on the property to recover the cost of a demolition so ordered by City Council.

Upon inquiry of Mayor Martin regarding notice requirements, Mr. Hixson said that legal notification has been given.

Ms. Nellie Hunsucker, owner of the house, said that she has had an offer to sell the house for $2,000 but was told that she could get more out of the sale if the house were not on it. She said it would cost her $2-8,000 to tear the house down herself, but she doesn't have the money to do that. She said that she also owes about $200 in taxes and asked for guidance from City Council on how to proceed.

Councilman Skalski said that it might be better to let the City tear down the house, place a lien on it and then she could try to sell the land.

Councilman Cloninger explained that with a lien on the property after it's been demolished, she could sell the property and the proceeds from that sale could be used to pay off the lien.

Upon inquiry of Councilman Cloninger regarding the City's policy on executing on a lien for demolition, City Attorney Slawter said that the City has not specifically brought an action to cause the property to be sold to satisfy a lien. Very often these properties are also delinquent in taxes and the tax collector initiates tax foreclosure proceedings which accomplishes the same thing.

At the suggestion of Councilman Worley, City Attorney Slawter said that he would give her a name and phone number of someone who might be able to explain the pros and cons to her in a little more detail.

Mayor Martin closed the public hearing at 6:42 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2293. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2293 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 24

F. PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 112 BROOKLYN ROAD

Mayor Martin opened the public hearing at 6:43 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Bob Hixson, Director of Building Inspections, said that 112 Brooklyn Road is a dilapidated structure. The owners Bernard and Olivia Rutherford have not responded to the Order of the Director Designee of the Building Safety Department to repair or demolish this structure. 112 Brooklyn Road was inspected by Building Safety Department staff on August 8, 1995. Inspector Dan Stewart found the following conditions, which have been documented by still photographs and video tape:

- The dwelling walls and roof are structurally unsound.
- The dwelling is more than 50% gutted by fire.
- The dwelling has no operational electrical, or plumbing systems.
- The dwelling is abandoned and being occupied by vagrants.

Inspector Dan Stewart sent a correction order to the property taxpayer of record on 8/8/95. There was no response. A formal hearing was then scheduled for 11/1/95. On 11/1/95 the hearing was opened and the previous owner and new owner attended. The hearing was continued until 11/8/95 at which time no one attended. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the owners Bernard and Olivia Rutherford to repair or demolish 112 Brooklyn Road within 30 days on 112 Brooklyn Road. As of this date, no action has been taken by the owner of legal record.

After the initial title search was done on this house, the house changed hands in December of 1995. Mr. Hixson said that Mr. Ranson Rutherford (the new owner) said that the seller did not tell him about the condemnation proceedings in progress. Mr. Hixson was told that Mr. Rutherford said that he attempted to get a building permit to repair the house, but to date a permit has not been issued. Mr. Hixson was also informed Mr. Rutherford said that he would like to fix the house at his own pace.

The present fair market value of the dwelling only is $2,500. The cost of rendering the dwelling fit for human habitation is $60,038.

Mr. Rutherford asked Council to postpone taking action on this ordinance for at least 60 days. That should give him enough time within which to get a building permit and start repairing the house. He said he has received estimates to repair the house in the neighborhood of $25-32,000.

Councilman Worley moved to continue this public hearing until August 27, 1996, at 5:00 p.m., without further advertisement. This motion was seconded by Vice-Mayor Field and carried unanimously.

It was the consensus of Council that before August 27, 1996, Mr. Rutherford have a building permit and a report on what he has been doing to renovate the house.

G. PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 3 NORTH CRESCENT STREET

ORDINANCE NO. 2294 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 3 NORTH CRESCENT STREET

Mayor Martin opened the public hearing at 6:51 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Bob Hixson, Director of Building Inspections, said that 3 North Crescent Street is a dilapidated structure. The Owners Rosa Mae Garlington and John Garlington have not responded to the Order of the Director Designee of the Building Safety Department to repair or demolish this structure. 3 North Crescent Street was inspected by Building Safety Department staff on 1/3/95. Inspector Tim Jones found the following conditions, which have been documented by still photographs and video tape:

- The dwelling walls and floor are structurally unsound.
- The dwelling roof is damaged beyond repair.
- The dwelling has insufficient sanitary facilities.
- The dwelling is abandoned and being occupied by vagrants.

Inspector Tim Jones sent a correction order to the property taxpayer of record on 1/3/95. There was no response. A formal hearing was then scheduled and held on 3 North Crescent Street and no one attended. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the owners Rosa Mae Garlington and John Garlington to repair or demolish 3 North Crescent Street within 30 days on 10/20/95. As of this date, no action has been taken by the owner of legal record.

The present fair market value is $24,200. The cost of rendering the dwelling fit for human habitation is $57,400. The City's estimate to demolish the house, site clearing, grass seed application and refuse disposal is $11,000. The estimate of the property without the house is $900.

N.C.G.S. 160.A-443(5) authorizes the City Council to direct by ordinance the demolition of 3 North Crescent Street subsequent to failure of the owners Rosa Mae Garlington and John Garlington to demolish or repair as described above, N.C.G.S. 160A-443(6) authorizes placement of a lien on the property to recover the cost of a demolition so ordered by City Council.

Mr. Hixson said that a power of attorney has been signed over to Mr. Jack Eugene Garlington who is in jail for approximately another year. Mr. Hixson said that Mr. Jack Garlington has attempted to give a power of attorney to Ms. Florence Clark Holloway who has asked that the demolition be delayed until Mr. Garlington can get out of jail.

Mayor Martin closed the public hearing at 6:56 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2294. This motion was seconded by Councilman Skalski.

On a roll call vote of 7-0, Ordinance No. 2294 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 26

H. PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 25 MICHAEL STREET

ORDINANCE NO. 2295 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 25 MICHAEL STREET

Mayor Martin opened the public hearing at 6:56 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Bob Hixson, Director of Building Inspections, said that 25 Michael Street is a dilapidated structure. The Owner Thomas A. Hutchinson have not responded to the Order of the Director Designee of the Building Safety Department to repair or demolish this structure. 25 Michael Street was inspected by Building Safety Department staff on 6/1/94. Inspector Tim Jones found the following conditions, which have been documented by still photographs and video tape:

- The dwelling walls and roof are structurally unsound.
- The dwelling has insufficient sanitary facilities.
- The structure is abandoned and being occupied by vagrants.

Inspector Tim Jones sent a correction order to the property taxpayer of record on 6/1/94. There was no response. A formal hearing was then scheduled and held on 25 Michael Street and no one attended. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the Owner Thomas A. Hutchinson to repair or demolish 25 Michael Street within 30 days on 11/1/95. As of this date, no action has been taken by the owner of legal record.

The present fair market value of the dwelling is $1,500. The cost of rendering the dwelling fit for human habitation is $30,816. The City's estimate to demolish the house, site clearing, grass seed application and refuse disposal is $11,000. The estimate of the property without the house is $900.

N.C.G.S. 160.A-443(5) authorizes the City Council to direct by ordinance the demolition of 25 Michael Street subsequent to failure of the owner Thomas A. Hutchinson to demolish or repair as described above, N.C.G.S. 160A-443(6) authorizes placement of a lien on the property to recover the cost of a demolition so ordered by City Council.

Mayor Martin closed the public hearing at 6:57 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Sellers moved for the adoption of Ordinance No. 2295. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, Ordinance No. 2295 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 28

I. **PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 20 SPRINGSIDE DRIVE**

ORDINANCE NO. 2296 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 20 SPRINGSIDE DRIVE

Mayor Martin opened the public hearing at 6:57 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Bob Hixson, Director of Building Inspections, said that 20 Springside Drive is a dilapidated structure. The owners William Darden Jr. and wife Delana Darden have not responded to the Order of the Director Designee of the Building Safety Department to repair or demolish this structure. 20 Springside Drive was inspected by Building Safety Department staff on 7/21/95. Inspector Natalie Berry found the following conditions, which have been documented by still photographs and video tape:

- The dwelling has no operational electrical, or plumbing systems
- The dwelling roof and floors have severe water damage.
- The dwelling is abandoned and being occupied by vagrants.

Inspector Natalie Berry sent a correction order to the property taxpayer of record on 7/21/95. There was no response. A formal hearing was then scheduled and held on 20 Springside Drive and only a neighbor attended, not the owner. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the owners William Darden Jr. and wife Delana Darden to repair or demolish 20 Springside Drive within 30 days on 11/15/95. As of this date, no action has been taken by the owners of legal record.

The present fair market value is $49,500. The cost of rendering the dwelling fit for human habitation is $62,768. The City's estimate to demolish the house, site clearing, grass seed application and refuse disposal is $11,275. The estimate of the

This property is in foreclosure proceedings by Buncombe County and the County has asked that the City delay implementation of the demolition ordinance.

Mayor Martin closed the public hearing at 7:01 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Hay moved for the adoption of Ordinance No. 2296, with the effective date of the ordinance be delayed six months to allow Buncombe County to complete their foreclosure proceedings. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2296 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 30

J. **PUBLIC HEARING TO AMEND THE CURRENT FLOODPLAIN MANAGEMENT REGULATIONS TO REFERENCE A NEWLY COMPLETED STUDY WHICH DELINEATES THE FLOOD-PRONE AREAS IN THE CITY OF ASHEVILLE'S JURISDICTION**

ORDINANCE NO. 2297 - ORDINANCE TO AMEND THE CURRENT FLOODPLAIN MANAGEMENT REGULATIONS TO REFERENCE A NEWLY COMPLETED STUDY WHICH DELINEATES THE FLOOD-PRONE AREAS IN THE CITY OF ASHEVILLE'S JURISDICTION

Mayor Martin opened the public hearing at 7:01 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning & Development Director, said that this ordinance is proposed in order to amend the City of Asheville's current floodplain management regulations to reference a newly completed study which delineates the flood-prone areas in our jurisdiction.

The City of Asheville, as a participant in the National Flood Insurance Program, is required to adopt certain floodplain management measures and apply those measures to areas delineated on maps provided to the City by the Federal Emergency Management Agency (FEMA). The FEMA maps indicate those areas in the City which have been identified through engineering evaluations as flood hazard areas (areas susceptible to flooding and, therefore, in need of regulation).

The City's current flood ordinance references 1980 Flood Insurance Rate Maps produced by FEMA in defining the area of applicability of the City's floodplain regulations. FEMA recently (May 6, 1996) released a new Flood Insurance Study for Buncombe County, North Carolina, and its incorporated areas which the City must utilize in determining those areas subject to floodplain management in accordance with the National Flood Insurance Program.

This proposed ordinance amends our floodplain regulations to reference the new study.

The Planning and Development staff recommends approval of this ordinance. At their June 5, 1996 meeting, the Asheville Planning and Zoning Commission unanimously recommended approval of the adoption of this ordinance.

Mayor Martin closed the public hearing at 7:02 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2297. This motion was seconded by Councilman Skalski.

On a roll call vote of 7-0, Ordinance No. 2297 passed on its first and final reading.

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At 7:07 p.m., Mayor Martin announced a ten minute recess.

III. UNFINISHED BUSINESS:

A. DECISION REGARDING RECYCLING PROGRAM TO BE WEEKLY OR BI-WEEKLY AND WHETHER TO USE BIN OR BLUE BAG SYSTEM

Mr. Mark Combs, Public Works Director, provided the following additional information regarding weekly vs. bi-weekly recycling collections.

Following is 'pro' and 'con' information pertaining weekly and bi-weekly systems:

Weekly Collection Schedule - Pros:

- customer habits easier/quicker to establish
- Education easier
- In communities w/high participation rates, up to 10% more materials collected
- Customers do not have to 'stockpile' recyclables

Weekly Collection Schedule - Cons:

- Higher cost to Provider (city) for service
- Fewer recyclables picked up per stop
- Increased traffic in neighborhood

Bi-Weekly Collection Schedule - Pros:

- Lower cost to provider (city) for service
- More recyclables picked up per stop
- Less neighborhood traffic
- Less difficult to expand vs. reduce services

Bi-Weekly Collection Schedule - Cons:

- Education program more critical to program
- Greater potential for customer confusion/decreased convenience
- Customers must 'stockpile' recyclables
- Potential decrease (10%) of collected recyclables

Staff recommends that City Council authorize the Mayor to enter into a formal contract with the lowest bi-weekly bidder, Curbside Management, Inc. The reasons for this recommendation are low costs, the potential to expand service frequency and the utilization of a bin-type collection system.

Vice-Mayor Field said that she has found out that some people in the County use bins and some use blue bags, so the issue with consistency with the County might be okay. She did state that she was very concerned about bi-weekly pickups; however, she did understand the reason for it. If, for some reason, the bi-weekly system does not succeed, she hoped Council would be agreeable to put a little more money into going weekly. She felt consistency with the County, along with ease for the residents was important. She wanted the program to work not only in the City, but in the entire region.

Councilman Skalski expressed concern over the five year term of the contract. Mr. Combs responded that there are performance clauses written into the contract.

Councilman Skalski then said that he has seen results of a neighborhood survey and 60% were willing to pay for recycling. Therefore, he felt that the entire cost should be borne by the consumer in user fees.

Councilman Hay said that he would support a weekly bin program.

Councilman Cloninger agreed that a weekly bin program would be acceptable, however, he felt that we should start on a bi-weekly basis first and if need be, graduate to a weekly basis.

Mr. Combs responded to a question raised by Vice-Mayor Field about the Public Works Department bidding on this project.

Councilman Cloninger moved to accept the lowest bid of Curbside Management, Inc., which is a bi-weekly pickup with a bin method collection. This motion was seconded by Councilman Worley and carried unanimously.

City Manager Westbrook said that recycling is very important and staff will be continually monitoring the system.

B. ORDINANCE NO. 2298 - ORDINANCE ADOPTING THE BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR FISCAL YEAR 1996-97

Mayor Martin said that the public hearing on the 1996-97 Annual Operating Budget was held on June 11, 1996.

Audit/Budget Director Bob Wurst presented the recommended General Fund budget in the amount of $49,944,345. The ordinance as recommended sets the tax rate at $.57/$100 valuation (as in the current fiscal year with no increase). This budget ordinance includes increased funding for CityWorks, outside agencies and the Asheville-Buncombe ID Bureau. Funding has been increased in the Building Safety Department to reflect increased Minimum Housing Code fees and a half-time position is adjusted to full-time. The budget includes funding for a recycling program based on a January 1, 1997, implementation. The budget also includes adoption of the 1996-97 CDBG and HOME budgets previously reviewed in the Consolidated Plan.

Councilman Skalski moved to (1) add $40,000 for a Senior Planner to the Planning and Development Department. He said that we are now remapping every zone in the City and have only one senior planner; (2) reduce "City Development" allocation from $220,000 to at least $70,000. He felt that we didn't need another layer of bureaucracy; and (3) remove the entire $200,000 from the General Fund budget and place it in the "user fees". The citizens were surveyed and are willing to pay for the program. This will also be an incentive for them to work to make it more effective. Councilman's Skalski's motion died for a lack of a second.

Mayor Martin made rebutting statements to each of the three items outlined above in Councilman's Skalski's motion.

Councilman Skalski moved to (1) eliminate the $90,000 for the Chamber of Commerce. He said it already gets a room tax subsidy for promotion of tourism member companies; (2) fund the Buncombe County Drug Commission at last year's level ($15,000). No one has shown their effectiveness and we should give them another year to try; (3) eliminate $2,000 for the Sister Cities Program since that program is tourism oriented and should not be funded by the City; and (4) eliminate the $15,000 for the "VISION" since we give them "in kind" office

space. He asked if we really needed to set up a whole function of government for this? Councilman's Skalski's motion died for a lack of a second.

Mayor Martin made rebutting statements to each of the four items outlined above in Councilman's Skalski's second motion.

Councilman Skalski moved to endorse the Metropolitan Sewerage District of Buncombe County, North Carolina's current "line extension policy" as adopted at their June 15, 1996, board meeting, and ask that the Asheville-Buncombe Water Authority adopt a similar policy. He said the resolution adopted by MSD calls for the implementation of "... a comprehensive, county-wide land use plan to provide a rational basis for engineering and financial projections ..." City Council endorses this and will work to have the Asheville-Buncombe Water Authority adopt similar guidelines. He said comprehensive planning calls for an "economic/social, balance sheet" which includes the coordination of all infrastructure needs in the area, including roads, sewers, water and schools. This will help our area grow wisely, by employing impact statements and studies in our planning. Finally, comprehensive planning, conservation districts, accompanied by impact statements and studies should also be included in the new Unified Development Ordinance ("UDO"). It is not in the UDO and the current UDO Committee Chairman, Councilman Worley, surely would want it included. Councilman Skalski's motion died for a lack of a second.

Mayor Martin agreed that we want to help our area grow wisely, he didn't agree that the MSD policy of no sewer extensions sends the right message.

Councilman Worley stated that the Water Authority does have a Master Plan and it showed water line extensions going into the County. He strongly agreed in comprehensive planning, however, he thinks there is a misconception about what the UDO is. The UDO is not a planning document - it is a compilation of our various development ordinances into one format where they can be easily ascertained and followed. The planning document that the UDO recognizes is the 2010 Plan and it's subsequent revisions.

Councilman Skalski moved to create the position of "Community Conservation Coordinator/Facilitator." He said that in lieu of "community oriented government", to create the position of "Community Conservation Coordinator/Facilitator". This person could help make city services and information more accessible to communities/neighborhoods, both residential and commercial. The cost would be the same - $81,071. This facilitator would coordinate joint ventures to facilitate community involvement in government. These ventures would rely on existing business, neighborhood and individual volunteers to bring people together to do proactive area planning and economic development programs throughout the area to update the 2010 Plan. This position should be budgeted in a non-governmental department (outside agency) line item defined as an agent acting as a conservation coordinator/facilitator out in the community, with the cost of $81,071 already allocated. Councilman Skalski's motion field for a lack of a second.

Councilman Cloninger was impressed with staff's proposals regarding the development of a community oriented government program and he felt the program presented to the Council will provide all of the services outlined in Councilman Skalski's motion.

Ms. Leni Sitnick applauded Council's efforts in community oriented government, the implementation of the recycling program and the hiring of an arborist. She suggested (1) Council begin their worksessions later in the day so that members of the public do not have to miss work to attend their meeting; (2) worksessions be held in the Council Chamber if they anticipate a crowd so that everyone will have a chair; (3) a sound system in Room 623 in order to let the audience hear all of the discussions taking place; (4)

provide better notification of the budget public hearing next year - perhaps ARNIE and a cable crawl on the television; and (5) attract economic development by having all amenities and infrastructure in place and stroke the existing businesses. She asked Council (1) to try to find ways to increase the contingency fund; (2) to make sure there is $100,000 for stormwater maintenance; and (3) to make sure that the appropriation for water conservation is $155,000. As a representative of the Bicentennial Committee, she asked to see the line item in the Parks and Recreation budget for the $6,700 for the Bicentennial Committee.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2298. This motion was seconded by Vice-Mayor Field.

Councilman Skalski said that he could not vote in favor of the 1996-97 General Fund budget. He said "the budget that we have before us could have many elements and policies attached to it that would greatly enhance the standard of living of the citizens of Asheville, the working families that live in the neighborhoods that elected this City Council. We can help them - all of us - you must surely realize the fact that all national and state politics are local. By recognizing that, we can help them.

During the past several months while we have been deliberating the issues in and around the $67,000,000 budget we have before us, I have heard it repeated over and over again by Council members and echoed by staff that it can't be done because Raleigh won't allow it, or, they'll never consider it. I repeat, all national and state politics are local. And, it's a historic fact, that all policy changes begin at the local level. We must do so in order to help our local families.

1. The budget is approximately $500,000-$1,000,000 short of meeting our fund balance goal of 15% of general fund operations. This goal is far below the state average of 24%. This is unacceptable.

2. How shall we replace the $200,000 cut in federal grants for the Transit Authority? We, as a group, could have worked much harder with our state legislators about adjusting where our transportation dollars are spent. I was the only one who even asked. It should be City policy to pursue every avenue, we have no choice. Do our citizens want us to sit here and do nothing but raise unfair local taxes ad infinitum? I say no.

3. The "General Fund Contingency" should be at $500,000. This money is set aside for unplanned or unexpected expenses. Last year it was $450,000. We used up the entire $450,000 last year. This year we have set aside only $150,000. This is not prudent management. Having a mere $150,000 is not enough because we are going to have even more cuts at the federal and state level in the next year. We need more, not less.

4. Citizens' property tax money should not continue to be spent for sidewalks or streets. These are "transportation" dollars that should come from the state Department of Transportation and revenue sharing through the existing Powell Bill money. Grandiose four lane highways are too expensive to build and there is no money for maintenance. For example, all the new sidewalk work currently underway on state maintained Biltmore Avenue was taken from the City treasury. This should come from the state. This policy must be changed. Our working families in Asheville deserve better. Local policy must be enacted and moved toward Raleigh.

5. Our water bills are among the highest in the country and our sewer rates among the highest in the state. We have had no policies to control

costs, no guidelines for development. We must start implementing comprehensive planning now. We cannot give away the store in the name of progress. The triangle area, Wake County, North Carolina, which is in the top five in the country in bringing in new jobs, now has 400 trailers for school students. Where did all the money go? With all the new taxes being raised with record growth, there should be money for infrastructure to spare. There isn't. Are we on the same path? Yes, we are. We must change this path by implementing comprehensive planning now. Our budget policies should reflect restraint. Speculative investing should be by private business not underwritten by the taxpayers. Private failure should be borne by private investors, not taxpayers. Working families property taxes should not be used for sewer and water line extensions.

These are just a few examples of important issues for the hard working families of Asheville. This Council was elected by the neighborhoods were all these hard working families live. Shouldn't we begin to right the wrongs of the past 20 years in this City? Shouldn't we start reassessing our priorities? This budget doesn't address our priorities. I can't vote for it."

Councilman Worley was also concerned about the $500,000 short of meeting our fund balance goal. He would like to see us at our fiscal policy of 15% as a minimum. He was also concerned about the general fund contingency. He felt that the loss in transit fees is a concern shared by all Council. He said that in order for Council to reach those goals, $1,000,000 would have to be added to the budget and that translates to somewhere between a 3-5 cent increase in the tax rate. He felt that Council could handle the budget as is presented without the necessity of a tax increase. He was not willing to raise the taxes at this point and that was the only place that he saw the money could come from.

Vice-Mayor Field said that the Local Government Commission requires that we keep approximately 8% in our fund balance - our fiscal policy is 15%. She said that we have actually added $300,000 from the fund balance from last year, so the fund balance is actually increasing. She has actually written both the state and federal governments about our transit moneys. She, too, is very concerned about the transit money. She clarified what Asheville does in terms of maintenance of our city streets and highways. She also was concerned about Councilman Skalski's statement regarding speculative investing - if it meant that it was inappropriate for the City to help industry, she could not agree with that.

Councilman Cloninger commented that he disagreed that this budget didn't address Council's priorities.

On a roll call vote of 6-1 (with Councilman Skalski voting "no"), Ordinance No. 2298 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 34

Councilman Hay suggested Councilman Skalski bring his concerns to Council early on in the budget process so his concerns can be addressed.

IV. NEW BUSINESS:

A. ORDINANCE NO. 2299 - ORDINANCE AMENDING ARTICLE IV (PROCESSIONS AND ASSEMBLAGES OF CHAPTER 16 OF THE CODE OF ORDINANCES)

Police Chief Will Annarino said that this ordinance amends Article IV (processions and Assemblages) of Chapter 16 of the Code of Ordinances of the City of Asheville.

In November of 1993, the Honorable Robert P. Johnston, Buncombe County Superior Court Judge, found the definitional section defining "picket lines" of the City's ordinance to be unconstitutional on the grounds that same was vague and over-inclusive. While an appeal from that decision was taken by the Buncombe County District Attorney's Office at the request of the City to the North Carolina Court of Appeals, it was subsequently determined that the appeal should be withdrawn. Upon withdrawing the appeal, the City decided to revisit its parade/picket ordinance in light of current developments in case law.

After extensive research and meetings of staff, an amended ordinance that was approved by the North Carolina Attorney General's Office was submitted to City Council for consideration and adoption on July 25, 1995. Members of City Council asked staff to revisit the ordinance by inviting members of the public to participate in the drafting of the ordinance.

The efforts at revising the July 25, 1995, amended ordinance have been extensive, including numerous staff meetings, revisions, amendments, meetings with citizens interested in the amended ordinance, receiving their input, subsequently revising the ordinance consistent with comments received from the public, additional meetings between staff, substantial research with the final result being the attached ordinance.

He summarized the revisions as follows: (1) the new proposed ordinance eliminates a number requirement to trigger a parade permit; (2) there are no time notification restraints for a picketing; (3) no administrative filing fee for pickets; (4) the definition of "parade" and "picketing" has been spread out and further defined; (5) eliminates the 15 foot single file requirement for pickets; (6) eliminates the sign regulation requirement; (7) it reduces from 72 hours to 48 hours the notification for parades; (8) it includes an administrative filing escort fee of $20 and $10 respectively for parades; (9) it adds an indigency clause for parades; (10) it bans focused residential picketing; (11) it eliminates firearms and dangerous weapons from parades and permits; (12) it limits parade hours from sunrise to sunset; (13) it institutes a right to appeal the Chief of Police decision on parades; and (14) it develops a severability clause for the ordinance in case one or certain parts of it are held unconstitutional.

The Asheville Police Department recommends adoption of the amended ordinance.

Mr. Meredith Hunt, representative of Life Advocates, questioned the interpretation of two parts of the ordinance. He did feel that this was an outstanding ordinance allowing for the maximum amount of free speech in the City of Asheville. However, he did object to it being unlawful for any person to engage in picketing focused on and taking place in front of a particular residence. He didn't think it was necessary, but if it remained he suggested amending the sentence to add the word "solely". Without that word inserted, he didn't think it would stand a constitutional challenge. Another amendment he suggested was to include in the ordinance exceptions that relate to any business activity that is included at a residence or any public activity.

City Attorney Slawter responded to both issues presented by Mr. Hunt but recommended the ordinance remain as presented by Chief Annarino.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2299. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2299 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 39

B. RESOLUTION NO. 96-105 - RESOLUTION REQUESTING THE PUBLIC WORKS DEPARTMENT TO INSTALL ADDITIONAL TRAFFIC CONTROL DEVICES AND MEASURES ALONG EDGEWOOD ROAD BETWEEN MERRIMON VENUE AND THE UNC-ASHEVILLE CAMPUS

Mr. Doug Spell, Assistant City Manager, said that this resolution is staff's recommendation and it will authorize City staff to implement the necessary traffic control measures to convert the intersection of Edgewood Road/Darcy Lane and Edgewood Road/Hyannis Drive to 3-way stop and to convert the section of Edgewood Road from Hyannis Drive southward to University Heights to one-way with the direction of travel being northbound.

Ms. Leni Sitnick encouraged Council to adopt the staff recommendation. She suggested the intersection of W.T. Weaver Boulevard and University Heights be studied for possible traffic signalization. She also suggested a one page flyer could be given to the students at UNC-A in the fall to make them aware of the road changes.

Mr. Bruce Larson, Chair of the Faculty Center at UNC-A, spoke in support of the 3-way stop but was opposed to changing the section on Edgewood Road to one way.

Mr. Gene McDowell, Director of the Asheville Graduate Center, asked Council to consider starting with the 3-way stop, then if the stop signs do not work, Council can consider other measures.

Mr. Stephen Smith, vice-president of the Edgewood Road Neighborhood Association, voiced overwhelming support of the 3-way stop and changing the section of Edgewood Road to one way. He urged Council to reduce the volume of traffic on Edgewood Road and increase safety for the community by adopting staff's recommendations. The property owners have been battling this issue for two years.

Upon inquiry of Mayor Martin, Police Chief Annarino said that there have been five reported accidents reported on Edgewood Road in the last two years.

An unidentified man voiced concern on the staff's recommendations noting the very serious safety problems on Edgewood Road.

Ms. Julia Pruninger, member of church beside Hyannis Drive, felt there were still a lot of questions that needed to be answered. She asked Council to postpone this action and think through the different alternatives.

The Student Body President of UNC-A, felt the residents, in particular at UNC-A, were not informed of these proposals. He asked Council delay any decision until school started in the fall so that the "other group of residents" could voice their views. He felt that Council might be able to solve the problems by just installing the 3-way stop.

Mr. David Whitley, resident on Edgewood Road, stated the many different ways that notice was given over two years about the concerns of the Edgewood Road residents and hoped Council adopted the staff's recommendations.

Ms. Beverly Modlin, vice-chancellor at UNC-A, stated that UNC-A is supportive in making Edgewood Road better for all concerned. She said that UNC-A would support the 3-way stop but not changing the section on Edgewood

Road one way. She said that the impact of the 3-way stop should be analyzed before implementing any drastic steps.

Councilman Cloninger supported the full recommendation of staff. He noted that stop signs will address speed, but not the volume. He said that if these recommendations, once implemented, do not address the concerns on Edgewood Road, they can certainly be changed.

Councilman Skalski moved to adopt staff recommendations by (1) converting the intersection of Edgewood Road/Darcy Lane and Edgewood Road/Hyannis Drive to 3-way stop, and (2) converting the section of Edgewood Road from Hyannis Drive southward to University Heights to one-way with the direction of travel being northbound. This motion was seconded by Councilman Cloninger.

Councilman Worley could not support the motion. He didn't think a one way street was in the best interest of the City of Asheville overall. He supported the 3-way stop being implemented first and in three months, revisit the one-way issue.

Vice-Mayor Field questioned if the City's transportation planner was involved in these meetings. She suggested traffic circles.

Mayor Martin felt that the Council should start with the 3 way stop first and then if that doesn't solve any problems, they can revisit the one-way issue.

By a show of hands, Councilman Skalski's motion died on a 3-4 vote, with Councilmen Cloninger, Hay and Skalski voting "yea" and Mayor Martin, Vice-Mayor Field and Councilmen Sellers and Worley voting "no".

Councilman Worley then moved to convert the intersection of Edgewood Road/Darcy Lane and Edgewood Road/Hyannis Drive to a 3-way stop and that Council revisit the outcome of that move in about 6-8 months. This motion was seconded by Councilman Hay and carried on a 6-1 vote, with Councilman Skalski voting "no".

Councilman Skalski said that everybody mentioned the problems of traffic and inconvenience, but there is a real danger about people getting killed on that road. He felt that just putting stop signs alone on Edgewood Road will not work. He said that all the arguments he has heard has been over convenience of one minute.

RESOLUTION BOOK NO. 23 - PAGE 219

V. CONSENT:

At the request of a member of the audience, Item G regarding the McDowell Street viaduct was pulled from the Consent Agenda to be discussed individually.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 11, 1996, AND THE WORKSESSION HELD ON JUNE 10, 1996

B. RESOLUTION NO. 96-106 - RESOLUTION AWARDING BIDS FOR FIRE TACTICAL RESPONSE MIDI-PUMPER

Summary: Sealed bids were received to furnish one tactical response midi pumper for the Fire Department. Three bids were received. This unit will be a replacement for Vehicle #MT945, a 1990 Chevrolet pickup with a slide

in response unit. Staff recommends that the award be made to the low bidder, Chief's Fire and Rescue Inc., Jefferson, N.C., in the amount of $150,218 for the purchase of one 1997 Freightliner cab and chassis with a 3-D Model Midi Pumper Rescue Squad body. The following bids were received:

Vendor	Net Cost
Chief's Fire & Rescue Inc., Jefferson, N.C.	$150,218
Hackney & Sons Inc., Washington, N.C.	$150,285
Emergency Vehicles, Inc., Lake Park, Florida	$166,200

Funds for this purchase are appropriated in Account Code 20-420-40-471-00-5741.

RESOLUTION BOOK NO. 23 - PAGE 220

C. RESOLUTION NO. 96-107 - RESOLUTION AWARDING BIDS FOR STATION ALERTING SYSTEM FOR FIRE DEPARTMENT

Summary: Sealed bids were received to purchase a station alerting system for the Fire Department. Three bids were received.

The station alerting system will be an addition to the existing communication center console which is maintained under a maintenance agreement with Motorola Inc., Installation of the system alerting system will require a portion of that console to be dismantled and programmed to interface with the new system. The Motorola maintenance agreement requires all work performed on the console to be performed by a factory authorized Motorola Service Center. Bidders were informed of these requirements in the bid specifications.

The low bidder, Whitley's Communications, Asheville, N.C., is not recommended to receive the award because they are not authorized by Motorola to perform this work, and no provisions were included in their proposal to furnish installation of the system through an authorized service agent.

Staff recommends that the award be made to the second low bidder meeting all requirements of the bid specifications, Communication Service Asheville, N.C., in the amount of $35,566.50 for the purchase and installation of a "Zetron" station alerting system. The following bids were received:

Vendor	Net Cost
Whitley's Communications, Asheville, N.C.	$33,995.00
Communication Service, Asheville, N.C.	$35,566.50
Asheville Communications, Asheville, N.C.	$37,967.00

Funds for this purchase are appropriated in Account Code 20-420-40-471-00-5741.

RESOLUTION BOOK NO. 23 - PAGE 222

D. RESOLUTION NO. 96-108 - RESOLUTION APPROVING AN OUTDOOR SPECIAL EVENTS PACKAGE

Mr. Jeff Joyce, Program Supervisor, said that the purpose of this resolution is to approve the "Outdoor Special Events Package" for use by all City Departments. This package provides our customers, the general public, with all the information they need in preparing for the conduction of an Outdoor Special Event.

Any group that wishes to conduct an Outdoor Special Event in the City of Asheville presently must go to as many as five different departments of the

City in order to obtain permission. This package provides Event Organizers with all the specific information, permits, and instructions that will help them make the Event a success.

The Parks and Recreation Department, along with the Special Events Task Force, requests that the Outdoor Special Events Package be approved for immediate use by City departments.

RESOLUTION BOOK NO. 23 - PAGE 224

E. RESOLUTION NO. 96-109 - RESOLUTION ESTABLISHING FAIR REUSE VALUE FOR CERTAIN DISPOSAL PARCELS IN THE EAST END/VALLEY STREET AND HEAD OF MONTFORD REDEVELOPMENT PROJECTS

Summary: Certain disposal parcels in the East End/Valley Street and Head of Montford have been appraised, the appraisals reviewed and it is now necessary to establish the Fair Reuse Value in order to market the property.

Disposal Parcel 9A is located on Dundee Street in the East End and due to its small size is most likely to be sold to an adjacent owner. Disposal Parcels 6B and 6C are located on Montford Avenue in Montford, comprising approximately 1.4 acres and zoned for commercial development. Tract 3 is located on Short Street in Montford and due to its small size is most likely to be sold to an adjacent owner.

Each Disposal Parcel was appraised by Francis Naeger, MAI. The appraisals were reviewed by Benjamin T. Beasley, MAI, who concurred and recommended the appraised values as the Fair Reuse values.

Disposal Parcel #	Approved Use	Appraisal
6B	Commercial	$179,500
6C	Commercial	$ 69,400
Tract 3	Residential	$ 3,300
East End - 9A	Residential	$ 2,000

RESOLUTION BOOK NO. 23 - PAGE 225

F. RESOLUTION NO. 96-110 - RESOLUTION DESIGNATING DIRECTOR OF PUBLIC WORKS FRANKLIN MARK COMBS AS AGENT FOR THE CITY OF ASHEVILLE TO REQUEST REIMBURSEMENT OF COSTS ASSOCIATED WITH STORMS COVERED UNDER THE FEDERAL EMERGENCY MANAGEMENT ACT

Summary: The Public Works Department is required to submit an updated "Designation of Applicant's Agent" form with each request for reimbursement of costs associated with storms covered under the Federal Emergency Management Act. This is for the storms of January 6-9 and 12-14, 1996.

The Public Works staff recommends that Franklin Mark Combs, Director of Public Works, be designated as the Applicant's Agent.

RESOLUTION BOOK NO. 23 - PAGE 226

G. RESOLUTION APPROVING PROJECT NO. B-1070 CONSISTING OF REPLACEMENT OF THE McDOWELL STREET VIADUCT, BRIDGE NO. 76 OVER S.R. 3556, NORFOLK-SOUTHERN RAILWAY, SWANNANOA RIVER, AND APPROACHES ON U.S. 25 AND AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE N.C. DEPARTMENT OF TRANSPORTATION

This item was deleted from the Consent Agenda to be discussed individually.

H. **RESOLUTION NO. 96-111 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING DISPOSAL OF 17.282 ACRES OF VACANT LAND OFF ASCENSION DRIVE**

Summary: The City has received an offer from Cornerstone Realty Group Incorporated in the amount of $200,000 for the purchase of 17.282 acres of vacant land off Ascension Drive. This action will advertise for upset bids.

The City is the owner of record of a 17.282 acre tract of vacant land off Ascension Drive adjacent to the Meadows Apartments. The property has remained vacant since the City acquired it in 1981. The City has received, from Cornerstone Realty Group Inc. an offer to purchase this tract of land. As the current owner of Meadows Apartments, Cornerstone Realty Group Inc. is an REIT corporation and intends to construct market rate apartments on the property.

RESOLUTION BOOK N. 23 - PAGE 227

I. **RESOLUTION NO. 96-112 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A NON-WARRANTY DEED RELINQUISHING AN EASEMENT IN A ROADWAY FORMERLY KNOWN AS HIGHLAND PLACE**

Summary: This resolution authorizes the Mayor to execute a non-warranty deed relinquishing an easement owned by the City now Highland Place, a former roadway that once provided access to the former residence of William Quarterman.

On May 25, 1979, the N.C. Dept. of Transportation conveyed to the City of Asheville a deed of easement 20 feet in width for the purpose of constructing, locating, maintaining and repairing a sanitary sewer and/or water line across an access roadway leading to the former residence of William Quarterman known as Highland Place. Thereafter, the Department discovered that it had, by mistake, conveyed to the City the entire roadway in Deed Book 1219 at Page 59. In Deed Book 1400 at Page 30, the City of Asheville corrected that mistake by preparing a deed of correction whereby the City reconveyed the entire roadway to the Department, reserving for itself a joint use easement over the roadway for use as a fire lane in addition to the purpose of constructing, locating, maintaining and repairing a sanitary sewer and/or water line easement with a width of 20 feet. The roadway (as described in Deed Book 1400 at Page 30) is not open on the ground. The easement has not, and continues not, to be utilized by the City of Asheville for fire purposes nor by the Asheville/ Buncombe Water Authority for water line purposes.

Appropriate City staff have been consulted and neither the Fire Department nor the Water Resources Department, through the Asheville/Buncombe Water Authority, utilize the easement and anticipates no future use of such easement to the extent it crosses Mr. and Mrs. Candler's property.

Staff recommends that the City relinquish the easement to the extent it crosses Mr. and Mrs. Candler's property.

RESOLUTION BOOK NO. 23 - PAGE 228

J. **RESOLUTION NO. 96-113 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MR. D'S CLEANING TO PERFORM JANITORIAL SERVICES FOR THE CITY HALL BUILDING FOR ONE YEAR**

Summary: The City, through the Parks & Recreation Department, periodically solicits bid proposals for janitorial services for City Hall using the informal bid process. Bid specifications are distributed along with

the advertisement for bids so that all bid proposals reflect the same scope of work. The informal bid process was engaged in April, 1996. A total of 71 advertisement for bid letters were sent out, including 25 to certified minority businesses registered with the City. Advertisement letters were also sent to the Asheville Business Development Center, the City's Minority Business Office and other similar business resource organizations. Seven bid proposals were received, including five from certified minority businesses. The three lowest bidders were qualified and are listed below:

Firm Name and Location	Base Bid
Mr. D's Cleaning, Asheville, N.C.	$35,040
RCL Carpet Cleaning & Janitorial Service, Asheville, N.C.	$46,000
L&M Janitorial Services, Asheville, N.C.	$49,995

After review of these bid proposals and the qualification process of the bidders, it was determined that Mr. D's Cleaning would be selected as the lowest qualified bidder and City staff seeks Council's approval to enter into a contract to perform janitorial services for the City Hall building for one year for the bid amount of $35,040.

RESOLUTION BOOK NO. 23 - PAGE 229

K. **RESOLUTION NO. 96-114 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BARNEY P. WOODARD, AIA, ARCHITECT, FOR DESIGN SERVICES FOR THE SKYLAND FIRE STATION (ASHEVILLE FIRE STATION NO. 4)**

Summary: Pursuant to its lease agreement with the Skyland Fire Department, the City of Asheville is ready to retain an architect for design of a new fire station to serve the South Asheville area.

On November 21, 1995, the Council approved a lease agreement with the Skyland Fire Department, through which the City would hold a 99-year lease on land owned by the Skyland Fire Department on which to build a new fire station for the South Asheville area.

The Skyland Fire Department is also building a new fire station on the same site. It was anticipated in the lease agreement (z) that, although on separate pieces of property, the Skyland and Asheville fire stations would be contained in the same building shell, and (b that, for the purposes of economy and compatibility, the underlying design of each fire station would be the same. It is the opinion of the Fire Chief that these interests can best be addressed by retaining Barney P. Woodard, the architect that Skyland has retained, to perform the architectural services required for Asheville's fire station.

Mr. Woodard has proposed a standard fee of 7.5% of estimated construction costs of $350,000. The City's estimated construction cost has been included as part of the City's Capital Improvement Program for this (and succeeding) fiscal years.

RESOLUTION BOOK NO. 23 - PAGE 230

L. **RESOLUTION NO. 96-115 - RESOLUTION APPOINTING A CHAIRMAN TO THE ASHEVILLE DOWNTOWN COMMISSION**

Summary: This resolution will appoint Scott Jarvis as Chairman of the Downtown Commission to serve until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 231

M. RESOLUTION NO. 96-116 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT IN FAVOR OF THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, N.C., ACROSS PROPERTY OWNED BY THE CITY OF ASHEVILLE AND LOCATED AT THE INTERSECTION OF CATAWBA STREET AND BROADWAY AVENUE

Summary: The City of Asheville and the Metropolitan Sewerage District of Buncombe County ("MSD") wish to enter into an Easement Agreement for a sewer easement across Malvern Hills Park and Catawba/Broadway.

The City of Asheville and MSD have been working for a period of time to address an Easement Agreement across property operated by the Parks and Recreation Department. The two parcels of property are Malvern Hills Park and Catawba/Broadway. MSD has been willing to work with the City to protect and preserve trees within both areas. In addition, MSD has been sensitive to the concern of the Parks and Recreation Department in regard to the timing of the project in Malvern Hills. They have agreed to not allow construction of the sewer line replacement during the swimming pool season. Both parties agree that the increased number of participants in the Park during this time could cause a potential liability that should be avoided. Both agreements have been reviewed and approved by the Legal staff.

The Parks and Recreation Department recommends that City Council approve easement agreements to allow sewer line replacement across Malvern Hills Park and Catawba/Broadway.

RESOLUTION BOOK NO. 23 - PAGE 232

N. RESOLUTION NO. 96-117 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT IN FAVOR OF THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, N.C., ACROSS PROPERTY OWNED BY THE CITY OF ASHEVILLE AND KNOWN AS THE MALVERN HILLS PARK

SUMMARY: See above Item O.

RESOLUTION BOOK NO. 23 - PAGE 233

O. RESOLUTION NO. 96-118 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE BUNCOMBE COUNTY DRUG COMMISSION

Summary: City Council supports a contribution to The Buncombe County Drug Commission, Inc. for work with the Mayor's Drug Forum in the amount of $15,000.

The Buncombe County Drug Commission has submitted a request to the City Council Outside Agency Committee for $15,000 as the City's contribution to the funding of the Drug Commission's work in support of the Mayor's Drug Forum. The City Council desires to fund this request in the current fiscal year.

City of Asheville procedures regarding outside agency funding require a written agreement between the City and The Buncombe County Drug Commission, Inc. outlining the use of the funds.

City staff recommends the City Council approve the resolution authorizing the City Manager to enter into an agreement between the City of Asheville and The Buncombe County Drug Commission for the $15,000 contribution.

RESOLUTION BOOK NO. 23 - PAGE 234

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Cloninger moved to approve the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Sellers and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2300 - BUDGET AMENDMENT RELATIVE TO THE LIVINGSTON STREET BALLFIELD LIGHTS

Summary: This budget amendment, in the amount of $60,000, is to replace the lights at Livingston Street Ballfield.

ORDINANCE BOOK NO. 16 - PAGE 45

B. ORDINANCE NO. 2301 - BUDGET AMENDMENT TO REFLECT INCREASES IN THE COST OF THE CITY'S MOTOR VEHICLE FUEL PURCHASES

Summary: This budget amendment, in the amount of $65,000, is to reflect increases in the cost of the City's motor vehicle fuel purchase.

ORDINANCE BOOK NO. 16 - PAGE 47

C. ORDINANCE NO. 2302 - BUDGET AMENDMENT RELATIVE TO THE BUNCOMBE COUNTY DRUG COMMISSION

Summary: This budget amendment, in the amount of $15,000 is the City's contribution to the funding of the Drug Commission's work in support of the Mayor's Drug Forum.

ORDINANCE BOOK NO. 16 - PAGE 49

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, the Ordinance Consent Agenda was passed on its first and final reading.

ITEM PULLED OFF CONSENT AGENDA FOR DISCUSSION:

RESOLUTION NO. 96-119 - RESOLUTION APPROVING PROJECT NO. B-1070 CONSISTING OF REPLACEMENT OF THE McDOWELL STREET VIADUCT, BRIDGE NO. 76 OVER S.R. 3556, NORFOLK-SOUTHERN RAILWAY, SWANNANOA RIVER, AND APPROACHES ON U.S. 25 AND AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE N.C. DEPARTMENT OF TRANSPORTATION

Summary: This agreement with the N.C. Dept. of Transportation ("NC DOT") will outline the responsibilities of the City and NC DOT for replacement of the McDowell Street viaduct. The City will be responsible for making necessary changes, relocation and adjustments to any public or privately-owned utility or any municipally-owned utilities. Adjustments to utility manholes of two feet or less will be made by NC DOT. The City is required to enforce the traffic operating controls. The bridge design includes outriggers and a conduit system for mounting lights for the poles and fixtures proposed for the project.

Project plans have been completed and the right-of-way has been acquired. At present, all issues with the bridge replacement have been resolved by the NC DOT, the Historic Resources Commission ("HRC") and the N.C. Historical Resources Commission. A Certificate of Appropriateness is pending approval from HRC.

Mr. Keith Jackson, 48 St. Dunstans Circle, urged Council to ask NC DOT to place a conservation easement along the residual properties that the original owners don't wish to buy back with regard to the McDowell Street viaduct project. He noted that on April 12, 1995, the Historic Resources Commission requested NC DOT place a conservation easement on all properties within Saint Dunstans required for the right-of-way acquisition. He felt that NC DOT should create some sort of a greenway along McDowell to prevent further encroachment created by the exposure of all the residual properties. He asked why the City didn't put a conservation easement on the piece of property that the City sold to NC DOT not long ago in connection with this project. He felt that if NC DOT was going to spend about $100,000 for the retaining wall to protect the neighborhood, why can't they spend $30-40,000 to write off the residuals.

Director of Public Works Mark Combs responded to questions raised by Mr. Jackson stating that if we would have made a stipulation on the piece of property that we sold, they would have condemned the whole piece of property.

Ms. Sharon Tabor, resident of 25 St. Dunstan's Circle and owner of Acorn Cottage Bed and Breakfast said that Bed and Breakfast will be strongly impacted by the McDowell Street viaduct. She stated that they want to salvage some of the trees and to protect the isolation of the neighborhood. She asked that mature trees be planted sooner in the process - now they are not planning to plant anything until the project is finished which could be as much as six years from now.

Councilman Cloninger visited the site and agrees that there will be a tremendous impact on Ms. Tabor's property. All she is asking is that NC DOT do a lot of its landscaping earlier in the process.

Vice-Mayor Field, Chairman of the Transportation Advisory Committee ("TAC"), was curious why this issue never came before the TAC Committee, which deals with NC DOT on issues like this. She urged Mr. Jackson and Ms. Taylor to come to their next meeting. The TAC could make a request of NC DOT for them and it would have the effect of the support from all the members, who are elected officials in the Asheville urban area. She couldn't say that they would agree with them, but asking NC DOT to do something sooner, rather than later, could very well be a possibility.

Mayor Martin said that members of Council have been previously furnished with a copy of this resolution and it will not be read.

Councilman Worley moved for the adoption of Resolution No. 96-119. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 235

VI. OTHER BUSINESS:

A. CANCELLATION OF JULY 2, 1996, WORKSESSION

It was the consensus of Council to cancel the July 2, 1996, worksession.

B. COMMENTS BY MS. LENI SITNICK

Ms. Leni Sitnick (1) passed out to Council a copy the cities in North Carolina that do have impact/development fees; (2) supported Council pursuing ISTEA ("Intermodal Surface Transportation Efficiency Act of 1991") moneys; and (3) encouraged Council to review past documents to come up with a formula for a fair and intelligent stormwater utility.

C. CHARLOTTE STREET SMALL AREA PLAN COMMITTEE

At the request of the Charlotte Street Small Area Plan Committee, Councilman Sellers asked for some guidance on whether an alternate could be appointed in the absence of one of the members and also if a proxy could be appointed to vote.

After a brief discussion, it was the consensus of Council to have no proxy voting and no alternate members being appointed.

Councilman Sellers raised another concern relative to the one representative of the commercial tenants.

It was the consensus of Council that since Ingles does lease the property and they have selected Mr. Spake to represent them on the Committee, that Mr. Spake be allowed to continue in that capacity.

D. RESOLUTION NO. 96-120 - RESOLUTION APPOINTING MEMBERS TO THE CARRIAGE PERMIT ADVISORY BOARD

At the request of the City Council Boards and Commissions Committee, City Clerk Burleson read the resolution appointing Dr. Deanna Kraft, Ms. Sally Rhoades, Ms. Linda S. Wiggs, Ms. Deena C. Knight and Mr. M. Michael Hyatt to the Carriage Permit Advisory Board to each serve a three year term respectfully.

Councilman Cloninger moved for the adoption of Resolution No. 96-120. This motion was seconded by Councilman Worley and carried unanimously.

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E. CLAIMS

The following claims were received by the City of Asheville during the week of June 6-13 , 1996: Betty Parker (Streets), Helen Waneski (Finance), Nancy Allen (Parks & Recreation) and Raymond Miller (Streets).

The following claims were received during the week of June 14-20, 1996: Ellen Caplan (Streets), Lourie Capps (Streets), Terry Felkel (Streets), Charles Brewer (Streets), Kevin Sebastian (Streets), Marie Penland (Water), Will Neville (Streets), Daniel Thomas (Streets), Sheba Bradley (Streets) and Oren Coin (Sanitation).

These claims will be referred to Asheville Claims Corporation for investigation.

F. LAWSUIT

The City was served with the following lawsuit on June 7, 1996, which is generally described as follows: Matter - May v. McDade v. City of Asheville, City of Asheville Police Department, et al. The nature of the proceeding is negligence, contribution and indemnification.

This lawsuit has been referred to Fred Barbour for legal representation.

G. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE ASHEVILLE WATERSHED CONSERVATION EASEMENT

At 10:30 p.m., Councilman Worley moved to continue this meeting until Friday, June 28, 1996, at 1:45 p.m. at the Radisson Hotel at the Year of the Mountains Commission 1995-96 Year End Conference, to consider a resolution authorizing the Mayor to execute the Asheville Watershed conservation easement. This motion was seconded by Councilman Skalski and carried unanimously.

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Friday - June 28, 1996 - 1:54 p.m.
Radisson Hotel

Continuation of Regular Meeting of June 25, 1996

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; and City Manager James L. Westbrook Jr.

RESOLUTION NO. 96-121 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE ASHEVILLE WATERSHED CONSERVATION EASEMENT

City Attorney Slawter said that at the June 11, 1996, City Council meeting, Council adopted a resolution authorizing publication of a notice of intent to convey a conservation easement related to the Asheville watershed. This resolution will authorize the Mayor to execute a perpetual conservation easement in the Asheville watershed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Cloninger moved for the adoption of Resolution No. 96-121. This motion was seconded by Vice-Mayor Field and carried unanimously.

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VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 2:03 p.m.

Magdalen Bowleson
CITY CLERK

MAYOR

Tuesday - July 9, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Sellers gave the invocation.

I. PROCLAMATIONS:

A. BICENTENNIAL COMMITTEE PRESENTATION

Mr. Richard Nantelle, Co-Chair of the Bicentennial Committee, said that the Committee has received the first of a series of letters the City will be receiving that provides support and encouragement for Asheville's Bicentennial. He then read the following letter dated June 27, 1996, from the Honorable Charles H. Taylor, Member of Congress:

"It is my pleasure to honor the City of Asheville on their 200th birthday in 1997. I understand that there will be a variety of events scheduled throughout the year that will not only celebrate this Bicentennial year, but will also promote our region.

"Since Asheville is the hub of North Carolina's Eleventh Congressional District, I heartily support this effort. This Bicentennial Celebration offers a special opportunity to celebrate our heritage and build toward the future.

"As we look out over a mountain vista we see the natural beauty of forests, streams and lakes. This vista has been enhanced by the towns and cities that lie in the valleys. The City of Asheville has much to offer the mountain region historically, culturally and architecturally.

I join other civic leaders in recognizing the major contribution of the City of Asheville has made in the educational and economic environment of Western North Carolina. I wish Asheville another 200 years of continued success."

Ms. Leni Sitnick, Co-Chair of the Bicentennial Committee thanked Council for their support of the Committee and spoke about promoting and implementing a "Clean You Up Awareness Program" including the agencies already involved with clean-up in Asheville. She also asked for the City's participation in a "Yes You Can Come Home Again - Hometown Reunion".

B. SISTER CITY

Mr. Charlie Nesbitt introduced Mr. Eric Pacault, a visitor from our Sister City in Saumur, France.

II. PUBLIC HEARINGS:

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. **RESOLUTION NO. 96-122 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RESTATED AND AMENDED SUPPLEMENTAL WATER AGREEMENT**

Ms. Patsy Meldrum, Assistant City Attorney, said that this resolution would authorize the Mayor to execute a Restated and Amended Supplemental Water Agreement.

The City of Asheville, County of Buncombe, County of Henderson and Asheville/Buncombe Water Authority have previously reached an agreement to cooperate in construction of a new regional water plant. Construction of the new plant, new transmission lines and other associated improvements to the water system require major capital expenditures. As the City of Asheville owns the assets of the water system, the parties have determined that the City of Asheville would be the entity to issue water revenue bonds for construction of the new plant, new transmission lines and other associated improvements.

Bond documents for those water revenue bonds require that certain covenants be made regarding water rates. The Asheville/Buncombe Water Authority sets those rates and the Asheville/Buncombe Water Authority, the County of Buncombe and the City of Asheville all approve the budget for the Asheville/Buncombe Water Authority. It is necessary, therefore, to amend the Supplemental Water Agreement to include the rate covenant requirements and other requirements of the bond documents.

The City of Asheville and the County of Buncombe have negotiated changes to the Supplemental Water Agreement to comply with the obligations of the bond documents. The Asheville/Buncombe Water Authority has been consulted about the changes. The County of Buncombe requested that the Supplemental Water Agreement be restated to incorporate these changes and previous amendments to it. That restatement and the changes negotiated for the bond documents are reflected in a document entitled "Restated and Amended Supplemental Water Agreement."

The City Manager and the City Attorney's Office recommend adoption of the resolution authorizing the Mayor to execute a Restated and Amended Supplemental Water Agreement.

Ms. Meldrum then outlined each of the changes.

Mr. Jerry Rice felt that this agreement should be a regional water agreement and the agreement should not include other matters, e.g.., recreation, in an agreement that should strictly deal with water.

Mayor Martin and Council responded to questions raised by Mr. Rice noting that the agreement is actually a tax equalization agreement. They explained that the Asheville-Buncombe Water Authority's budget is financially separate from the recreation items noted in the agreement.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-122, with Article IV (T) being amended to read that "Except as provided in Article XVI of this Agreement, the City may sell, mortgage, lease or otherwise dispose of property constituting the water system, in whole or in part, in accordance with the provisions of existing law, this Agreement and the Indenture, provided, however, that the Authority shall have thirty (30) days after receipt of written notice from the City that

the City intends to sell, mortgage, lease or otherwise dispose of said property to comment or voice objections to such sale, mortgage, lease or other disposition. This motion was seconded by Vice-Mayor Field and carried unanimously.

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B. RESOLUTION NO. 96-123 - RESOLUTION REVISING THE PROVISIONS PREVIOUSLY MADE FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 1996 BELE CHERE FESTIVAL

Mr. Irby Brinson, Parks & Recreation Director, said that the Bele Chere Board and the Parks and Recreation Department requests City Council approval in amending Resolution No. 96-74 for allowing alcohol during the Bele Chere Festival.

In May, 1996, Asheville City Council approved an ordinance prohibiting consumption and/or possession of open containers of malt beverages and unfortified wine on public streets and other property owned or occupied by the City of Asheville. In order to allow for the control of the sale and consumption of alcohol at Bele Chere, City Council approved Resolution No. 96-74. This resolution has been very controversial toward the downtown merchants who are within the Bele Chere Festival boundaries. Over the past month, numerous meetings have occurred with downtown merchants, Bele Chere Board representatives, the Legal Department, and Parks and Recreation staff in an effort to develop a compromise. Through the efforts of the above parties, the following compromise is proposed:

1. The Bele Chere Festival will sell wrist bands for $1 per day which will verify age compliance for possession of open containers of malt beverages and unfortified wine.

2. No one will be allowed within the Festival boundaries carrying alcohol without wearing a proper wrist band.

3. No cans will be allowed within the Festival boundaries and alcohol will be sold only in cups.

4. The sale of alcohol will end at 10 p.m. on Friday and Saturday and at 5 p.m. on Sunday. Possession of alcohol within the Bele Chere Festival will be prohibited after 10:30 p.m. on Friday and Saturday and at 5:30 p.m. on Sunday.

5. There will be alcohol-free zones designated.

6. Voluntary compliance will be requested from the downtown merchants who will regulate their own sales of alcohol during the Bele Chere Festival. Representatives from the downtown merchants will present their regulations in regard to this matter to City Council.

The Bele Chere Board and Parks and Recreation Department recommends City Council approval of this resolution to allow alcohol during the Bele Chere Festival based upon the above information.

Upon inquiry of Vice-Mayor Field, Mr. Brinson explained that the Alcohol Law Enforcement Agency, the Asheville Police Department and the downtown merchants will be enforcing the intent of this resolution. He responded to the $1/day wristband issue by saying that the wristbands will cost approximately $15,000 and that doesn't include the tents and tables that would go along with the stations to sell the bands. They

hope to use part of the $1 wristband cost to help to defray the clean-up and added security to the Festival area. He said that 10% of the sales will hopefully go to the non-profit agency (perhaps MADD or SADD) that will staff the stations. Also, since they are trying to limit the sale of alcohol on the streets, perhaps the $1 per day will be a deterrent for some people to drink on the street.

Upon inquiry of Councilman Skalski, Mr. Brinson said that there will be 11 portable locations selling alcohol manned by non-profits and there are 19 establishments in the Bele Chere area that are already licensed to sell alcohol.

Councilman Skalski said that the resolution adopted in May was to cut down on the amount of alcohol consumption. He felt that this resolution reversed that intent. He suggested that in the future it might be more advantageous to not have the 11 portable locations competing against the 19 merchants that are already licensed to sell alcohol in the festival area.

Councilman Sellers appreciated the work that has gone into this compromise resolution by Mr. Brinson, the Bele Chere Board and the downtown merchants. He said that the only way to guarantee no liability for the City is to eliminate the sale and consumption of alcohol totally on the sidewalks and streets and that it only be purchased and consumed on private property. He realized that the $39,122 that would be generated from the sale of alcohol goes to entertainment and other items, but that amount would be distributed to the 19 private establishments already licensed and in business to sell alcohol. Crowd control would be left up to the Police Department. Consumption by minors was an issue for City liability and the City would be relieved from any liability. Some other options voiced to him by concerned residents have been to (1) give the elimination of alcohol sales on streets and sidewalks a one year trial and see what effect it has; and (2) eliminate alcohol consumption between 6:00 a.m. - 6:00 p.m. and allow it to be sold from 6:00 p.m. until 10:00 p.m. From the people that have called him, he feels the City of Asheville should remove itself from the alcohol business and leave it to private enterprise.

When Vice-Mayor Field asked about how the City could replace the loss of $39,122, Councilman Sellers felt that if alcohol was not present at the festival, more people might be included to participate.

Mayor Martin said that Councilman Sellers had some good suggestions and even though we are too late in the process now to make changes with regard to the sale and consumption of alcohol during the 1996 Festival, they can be revisited for the 1997 Festival.

Mr. Brinson said that another issue dealing with alcohol sales is sponsorship. We do have beer sponsors and obviously if we stop alcohol sales, we would lose their sponsorship as well. That would be the loss of an additional $10-15,000. He said that the issue of alcohol sales does need to be revisited in 1997 and evaluated to see if that's the business the City really wants to be in.

Councilman Hay felt that the wristband idea might work out okay, but he also thinks it's time to look at beer sales for the 1997 Bele Chere Festival. He noted that there are big cities with successful festivals that don't allow beer sales on the streets or they limit the beer in other ways. He felt that it might be a good idea to direct the Bele Chere Board to take a long look at beer sales altogether.

Ms. Leni Sitnick agreed with Councilman Sellers' comments. She felt the downtown merchants should be the only ones selling beer if it's sold. She encouraged Council to not only discuss the possibility of eliminating beer sales on the streets for next Bele Chere, but to come up with some creative ideas to make up for those funds so that the City can pay for the wonderful entertainment that the Bele Chere Committee recruits.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Hay moved for the adoption of Resolution No. 96-123. This motion was seconded by Vice-Mayor Field and carried on a 4-3 vote, with Councilmen Cloninger, Sellers and Skalski voting "no".

RESOLUTION BOOK NO. 23 - PAGE 239

C. ORDINANCE NO. 2303 - ORDINANCE AMENDING ARTICLE 5, SECTION 16-143 REGARDING SELLING AND ENTERTAINING ON CITY STREETS

Mr. Irby Brinson, Director of Parks & Recreation said that the purpose of this amendment is to change the ordinance to allow outdoor dining permits during community events and festivals.

In 1991, City Council passed an ordinance allowing for outdoor dining, pushcarts, and street entertainment on public streets and sidewalks. Section 16-143 states that permits issued under the provisions of this article shall be temporarily suspended so that the sale of food and other products from push carts or outdoor dining areas or street entertainment shall be allowed at locations designated for community events and festivals permitted under Section 16-97. After discussing this matter with various City departments and the Bele Chere Board, the Parks and Recreation Department recommends that outdoor dining areas be allowed during community events and festivals. This change would not effect push carts and street entertainment; therefore, these will not be allowed during these events.

The Parks and Recreation Department recommends that City Council approve an amendment to Section 16-143 to allow for outdoor dining areas to be permitted during community events and festivals.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2303. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, Ordinance No. 2303 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 51

D. MOTION AUTHORIZING THE MAYOR TO SEND A LETTER TO BRANCH BANKING AND TRUST COMPANY AUTHORIZING THE RELEASE OF ACCRUED INTEREST FROM A DEPOSIT MADE BY THE PACK PLAZA PROJECT DEVELOPER AND HELD BY BRANCH AND TRUST COMPANY FOR THE BENEFIT OF THE OWNER OF THE PACK PLAZA PROJECT

City Attorney Slawter said that when the Pack Plaza Project was refinanced in 1988, the Bank of Scotland required the developer to provide a certain letter of credit to it. Part of the security for that

letter of credit was a deposit from the developer in the amount of $200,000 with Southern National Bank (now merged with BB&T). All of the $200,000 was previously drawn down by the Bank of Scotland when the developer failed to pay the interest due on the construction loan. There was some interest, however, which accrued on the $200,000 deposit.

Under an agreement and assignment, the City of Asheville has sole and exclusive control over the accrued interest until the owner of the Pack Plaza Project provides the City of Asheville with a request for disbursement for the funds for finishing unleased spaces within the Pack Plaza Project. The Bank of Scotland is now the owner of the project and they have made a request to the City of Asheville that we authorize the release of that interest still being held by BB&T. BB&T will not release the interest until the City authorizes them to do so.

The City Attorney's Office has reviewed the documents executed in 1988. Based upon their review of the documents, they recommend that the City Council consider a motion authorizing the Mayor to send a letter to BB&T authorizing the release of that interest to the Bank of Scotland.

The City Attorney's Office recommends that the City Council consider a motion authorizing the Mayor to send a letter to BB&T authorizing the release of the interest described above to the Bank of Scotland.

Vice-Mayor Field moved to authorize the Mayor to send a letter to Branch Banking and Trust Company authorizing the release of accrued interest from a deposit made by the Pack Plaza project developer and held by Branch Banking and Trust Company for the benefit of the owner of the Pack Plaza Project. This motion was seconded by Councilman Worley and carried unanimously.

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 25, 1996

B. RESOLUTION NO. 96-124 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 50A (AT THE INTERSECTION OF ASHELAND AND HILLIARD AVENUES) OF THE EAST RIVERSIDE REDEVELOPMENT PROJECT TO OAK VALLEY ASSOCIATES

Summary: Disposal Parcel 50A is a CS Commercial Service lot located approximately 300 feet south of the intersection of Asheland and Hilliard Avenues comprising 6,181 square feet. The lot is generally triangular in shape and mostly flat at street level. The bid from Oak Valley Associates for Disposal Parcel 50A includes the proposal to incorporate the lot into the property currently owned by Oak Valley Associates were the offices of Asheville Women's Medical Center are located. The development proposal consists of paving, landscaping and maintaining the lot consistent with the currently owned property. Oak Valley Associates is a partnership consisting of Craigan L. Gray, Catherine M. Wilson, Stephen T. Hill, William M. Callaghan and John P. Cuellar III.

The bid of Oak Valley Associates, in the amount of $30,900, for the purchase of Disposal Parcel 50A in the East Riverside Redevelopment Project is not less than the established minimum price of $30,900.

The upset bid process as provided in G.S. 160A-269 was conducted and no response was received.

This resolution will authorize the sale of the property to Oak Valley Associates for $30,900.

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C. **RESOLUTION NO. 96-125 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON JULY 23, 1996, ON QUESTION OF ANNEXATION OF PROPERTY LOCATED WEST OF OVERLOOK ROAD AND KNOWN AS GLEN OAKS, PHASE 3 (SECTION 7 OF BRAESIDE AT BILTMORE PARK)**

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D. **RESOLUTION NO. 96-126 - RESOLUTION OF RETENTION OF DISPOSAL PARCEL 21 (AT THE CORNER OF STARNES & CUMBERLAND AVENUES) OF THE HEAD OF MONTFORD REDEVELOPMENT PROJECT FOR PARK AND RECREATION PURPOSES**

Summary: Disposal Parcel 21 is located at the corner of Starnes and Cumberland Avenues. Due to its location, size and topography, it is suitable for a small neighborhood passive park. The community residents have expressed a strong desire to have the parcel committed to use as a park. The Asheville Parks & Recreation Advisory Board endorsed the residents' request on March 11, 1996.

The Head of Montford Redevelopment Plan identified the property as a potential site for multi-family housing. The most likely use, if not dedicated to park purposes, would be the development of single family homes to be sold to owner occupants.

This resolution will commit the property to future use as a park, however, no funding is available to construct the park in the near future.

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E. **RESOLUTION NO. 96-127 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE APPLICATIONS AND OTHER DOCUMENTS NECESSARY FOR FEDERAL REGISTRATION OF THE BELE CHERE SERVICE MARK AND TRADEMARK**

Summary: This resolution would authorize the Mayor to execute applications and any other documents necessary for federal registration of the Bele Chere service mark and trademark with the United States Patent and Trademark Office.

Since 1979, the City of Asheville has used a certain name and identification for the Bele Chere Festival. It would beneficial to protect the Bele Chere service mark and trademark by registering them with the United States Patent and Trademark Office.

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F. **CERTIFICATION OF THE CIVIL SERVICE BOARD ELECTION HELD ON JUNE 27, 1996**

Summary: The results of the Civil Service Board election held on June 27, 1996, are presented as follows: Jane A. Mervine-Knisely - 162 votes; Jesse Warren - 67 votes; Charles E. Webb - 24 votes; and Bob Welborn - 20 votes.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolutions and they will not be read.

Councilman Worley moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Sellers and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on July 3, 1996:

RESIDENCE INN - BILTMORE AVENUE

Councilman Worley moved to excuse Councilman Cloninger due to a conflict of interest. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mr. Mike Matteson, Urban Planner, said that Taylor-Murphy Investments is proposing the construction of a 72 room Residence Inn on Biltmore Avenue at the intersection of Biltmore and Roebling Circle. The 1.8 acre site is zoned OI Office Institutional and hotels are a permitted use. The proposed project complies with the requirements established by the City's zoning ordinance. The City's Traffic Engineer required that the project's drive be aligned with Caledonia Drive, located on the opposite side of Biltmore Avenue. The Commission's approval of the project does not include the requirement that the drive be aligned with Caledonia. There were approximately 20 citizens at the Commission meeting who were opposed to the project. Surrounding property owners and residents of the Kenilworth neighborhood expressed concern about the existing traffic problems on this section of Biltmore Avenue and the impact of the development on the area street system.

The proposed development was reviewed by the Commission at their June 5 meeting, at which it was tabled until their July 3 meeting. At their July 3, 1996, meeting, the Commission voted 4-3 to recommend approval of the site plan with the following conditions: (1) the lot must be subdivided; and (2) the project must comply with the open space requirements set forth in the zoning ordinance.

Upon inquiry of Councilman Skalski, Mr. James Cheeks, Traffic Engineer, said that the City has requested from the N.C. Dept. of Transportation ("NC DOT") a study to see if a traffic light is warranted at the intersection of Caledonia and Biltmore Avenue. At this time we have received no response from them. However, the City has already performed the necessary analysis and have determined that the intersection of Caledonia, Roebling and Biltmore meets 80% of our traffic signal warrants for three of the necessary requirements. That is enough to dictate that there will eventually be a signal there, however, that does not guarantee that the signal will be put in by NC DOT quickly.

When Councilman Skalski inquired about the location of the driveway, Mr. Cheeks said that the location of the existing driveway would cause a safety hazard due to its location and the curvature of the roadway in that area. He said that, from a traffic standpoint, to realign Roebling and Caledonia would be the optimum thing to do, but due to our budgetary constraints, that has not been a consideration. It

would be very expensive due to the stream that runs along side of Caledonia.

Upon inquiry of Councilman Hay, Mr. Cheeks responded that there would be an increase of approximately 159 trips more a day if the Inn was built.

Mr. Starnes, attorney representing the owners and developers, said that they have been in contact with NC DOT and have been told that they have no plans to put up a traffic light at Caledonia - that there is no need for one. He also said the developer has already made an agreement with the people who are operating the child care center to widen that area to accommodate some of the problems that they have with getting in and out along Roebling and to the extent necessary, up Sterling.

Mr. Gary Davis, registered engineer with McGill Associates, agreed with Mr. Cheeks that the optimum situation is to have one road directly across from another road. He said that they would like to move the existing driveway up more into the curve so you can see both directions at the same time. He said that in talking with NC DOT, they have not seen that at the present time that the area warrants a light to be installed. The McDowell Street viaduct construction is being undertaken to relieve some of the traffic problems on Biltmore Avenue. He then talked about the peak periods relative to traffic counts.

Vice-Mayor Field felt that moving the driveway up Biltmore will create a safer situation.

Councilman Skalski felt that since the McDowell Street Viaduct Project would take approximately 3-4 years to complete, most of that traffic will go onto Biltmore Avenue, that already has over 22,000 cars per day traveling on it.

Upon inquiry of Councilman Skalski, Mr. Clay Mooney, registered landscape architect, said that to move the driveway almost to the center of Caledonia would cost approximately $100,000 since there would be a considerable amount of grading to be done because of the 7 foot grade change. In addition there would be another cost incurred to dispose of the excess grading material.

Mr. Ellen Kochek, President of Gold's Gym, Vice-President of 711 Biltmore Corp. and Vice-President of Gym Park Corp., was not opposed to growth in Asheville if it's positive. She did, however, speak in opposition to construction of the Residence Inn, as it stands now, for the following reasons: (1) traffic and safety of pedestrians, drivers, residents of Kenilworth, parents of Mission Child Care and general public safety on Biltmore Avenue, Caledonia, Kenilwood, Roebling Circle, and Sterling; (2) inadequate parking; (3) drainage and sink hole problems in the area; and (4) possibility of construction damage to Gold's Gym. They urged the developer to align the driveway with Caledonia, as recommended by the City's Traffic Engineer. She said that Mr. Mooney stated at the Planning & Zoning Commission's June meeting that the developer would be responsible for any damage done to Gold's Gym. She then asked that if the project does pass, would the developer be willing to post bond in the event that she would incur any damages from or during construction. She said there are solutions and compromises that could created and asked that a public hearing be held.

When Vice-Mayor Field asked about the problem with stormwater control, Mr. Mooney said that the City does have a stormwater control ordinance in effect and they are required to comply with that ordinance.

Vice-Mayor Field then asked about the underground sink hole mentioned by Ms. Kochek. Mayor Martin said that the sink hole was fixed a number of years ago. Mr. Mooney also said that the project could not be built on unsuitable soil.

Upon inquiry of Vice-Mayor Field, Mr. Cheeks said that all four lanes of traffic would not be closed at one time during the McDowell Street Viaduct Project construction.

Ms. Jan K. Howard, President of the Kenilworth Residents Association, said that this issue has not been before their Board - it's not necessary a Kenilworth resident issue. She felt that the St. Dunstan's neighborhood would be directly impacted by this project. She suggested that the developer build the driveway directly across from Caledonia. She questioned the developer's statement about widening Roebling.

Mr. Starnes responded to Ms. Howard's question stating that the developer has been in touch with the operators of the Child Care Center and a solution has been worked out.

Upon inquiry of Vice-Mayor Field about a statement in a letter received which said that "the developer of the site is known to have been involved in less than scrupulous endeavors", Mr. Ken Murphy said that he has not been in any less than scrupulous endeavor.

Mr. Bill Rowe, property owner on Roebling, spoke against the proposed project and urged Council to hold a public hearing on the matter. He cited problems such as traffic and unstable soil in the area.

Councilman Skalski moved to set a public hearing on this matter for July 23, 1996, at 5:00 p.m. in the Council Chamber of the City Hall Building. This motion was seconded by Councilman Hay. Said motion was defeated on a 2-4 vote, with Mayor Martin, Vice-Mayor Field, and Councilmen Sellers and Worley voting "no."

Since the motion to set a public hearing was defeated, the report of the Planning and Zoning Commission was accepted, subject to the conditions that (1) the lot must be subdivided, and (2) the project must comply with the open space requirements set forth in the zoning ordinance.

YMCA YOUTH WING ADDITION ON WOODFIN STREET

Mr. Matteson said that the YMCA is proposing an 8800 square foot addition to their facility located at 30 Woodfin Street. The proposed addition, which will be located at the southeast corner of the existing building, will house the youth wing. The 2.8 acre site is zoned Central Business District and the proposed addition complies with all requirements of the City's zoning ordinance. No additional landscaping or parking will be required as a result of the addition. With the proposed addition, the total square footage of the YMCA will be approximately 49,000. There have been no comments from the public regarding the proposed addition.

The Commission reviewed the site plan for the addition to the YMCA at their July 3, 1996, meeting and unanimously recommended approval with no conditions.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

B. RESOLUTION NO. 96-128 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN APPLICATION, ON BEHALF OF THE CITY OF ASHEVILLE, FOR THE GROVE ARCADE BUILDING TO BE DESIGNATED AS A NATIONAL MONUMENT

Councilman Worley moved to excuse Councilman Hay due to a conflict of interest. This motion was seconded by Councilman Sellers and carried unanimously.

City Attorney Slawter said that this resolution will authorize the Mayor to execute on behalf of the City of Asheville an application and any other necessary documents for acquiring the Grove Arcade Building for historic monument purposes. He said that this is another step in the process of having the building transferred from the federal government to the City and ultimately have the building rehabilitated by the Grove Arcade Public Market Foundation in conjunction with a private developer. This transfer under the Historic Monument Preservation Act will enable the City to retain ownership of the building and there will be a long term lease of the building to the Public Market Foundation and the developer that they are working with.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Skalski moved to adopt Resolution No. 96-128. This motion was seconded by Councilman Cloninger and carried unanimously.

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C. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop felt the City Council should have allowed the public to speak during the group development issue earlier today.

D. COMMENTS BY LENI SITNICK

Ms. Leni Sitnick suggested (1) that City Council consider how they feel about our School Board and whether or not this community would benefit from a different appointment process; (2) City Council consider in the Unified Development Ordinance deliberations the possibility of including an Open Space Zone; (3) City Council discuss going from a non-partisan election to a partisan election; and (4) City Council investigate what exactly the School Board is doing with the Jones School property, in particular with the trees.

E. COMMENTS BY MS. JANE MATHEWS

Ms. Jane Mathews, member on the Planning & Zoning Commission, expressed concern that City Council did not set a public hearing on the Residence Inn group development project. She felt that the City Council would have benefited from further discussion from the community. She also felt the minutes of the Planning & Zoning Commission might have been helpful to them.

F. COMMENTS BY AARON ZARETSKY

Mr. Aaron Zaretsky, Executive Director of the Grove Arcade Public Market Foundation, thanked City Council for their continued cooperation in this project active.

G. COMMENTS BY HARRIETTE WINNER

Ms. Harriette Winner, member of the Planning & Zoning Commission, echoed Ms. Mathews' earlier comments relative to the Residence Inn group development. She felt that since there was a lot of input, the community would have expected a public hearing.

Vice-Mayor Field said that she did not vote for a public hearing because Council members have received many well written and specific letters from the public regarding their views on this issue. She didn't feel there was any additional information that could have been given to Council from the residents on this matter. As a result of the concerns raised by residents, she felt it was important to get the answers from the developers who were present.

Councilman Worley said that this is a situation Council has been faced with before where the project complies with the zoning ordinance. Where a project does comply with the zoning ordinance, Council has a real problem denying it as a result of a public hearing.

Ms. Jane Mathews said that in the Unified Development Ordinance process, there's talk about moving group developments to Technical Review Committee ("TRC") review. Under TRC review, this project would have been denied because of the road situation.

Ms. Leni Sitnick reminded Council that two of the Planning & Zoning Commission members are County appointees and wondered if they should be making decisions on City issues. She also said that City Council is given discretionary power to re-evaluate all of the recommendations brought before them.

H. CLAIMS

The following claims were received by the City of Asheville during the week of June 21-July 3, 1996: Frances Mannos (Water), Christy Baker (Water), Pierre Griffin (Parks & Recreation), Charles Cooke (Water), Bill Mebane (Water) and Darleen Williams (Streets).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

I. LAWSUIT

The following lawsuit was received by the City on July 1, 1996, which is generally described as follows: Biltmore Square Associates, et al v. City of Asheville, et al. The nature of the proceeding is refund of property taxes.

This lawsuit will be handled in-house.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:25 p.m.

Magdalen Bowerson
CITY CLERK

MAYOR

Tuesday - July 16, 1996 - 2:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

UNIFIED DEVELOPMENT ORDINANCE ("UDO") WORKSESSION

Councilman Worley said that the Council UDO Committee (Vice-Mayor Field and Councilmen Cloninger, Skalski and himself) have reviewed the policy issues and the recommendations of the UDO Advisory Committee and are submitting their recommendations for review by the full Council. At this time, direction on these issues is requested so that staff can make the appropriate revisions to the draft ordinance. Once the ordinance is in final draft form, it will be sent to the Planning & Zoning Commission for their comments and public hearing. After their recommendations, the draft ordinance will come back to City Council for their formal public hearing on the ordinance. He hoped that the process would be completed in March of 1997.

Councilman Worley then reviewed each of the following policy issues:

1. WHO SHOULD HAVE AUTHORITY TO INITIATE REZONING REQUESTS? (3-1, with Skalski voting "no".)

Property owner, Planning & Zoning Commission, Planning staff, City Council, any property owner of the city, 51% of the property owners in an area who own at least 51% of the property in the area (by petition).

The Council Committee voted to allow those individuals and groups identified above to initiate rezoning requests (same as provided by existing Zoning Ordinance).

Vice-Mayor Field asked for some clarity in how staff will determine the 51% of the property owners and their ownership of 51% of the land area when a zoning study is requested.

Councilman Skalski voiced concern over the relationship, or lack thereof, with the UDO and the 2010 Comprehensive Land Use Plan. He suggested some type of "mini-planning neighborhood board" that would allow the citizens in the area to deal with their own neighborhood zoning issues. He strongly supported the need of impact statements or impact studies for planning in the City.

2. SHOULD MEETINGS BETWEEN THE DEVELOPER AND NEIGHBORHOOD RESIDENTS BE REQUIRED OR RECOMMENDED EARLY IN THE REVIEW PROCESS? (4-0)

The current Zoning Ordinance does not mention meetings between developers and neighborhood residents. The draft UDO recommends that the meetings be held early in the planning stage for major projects.

The Council Committee voted to strongly recommend the meetings, not require them.

3. WHO SHOULD BE NOTIFIED OF PROPOSED PROJECTS? (3-1, with Skalski voting "no" as an abstaining vote)

Currently, owners of property within 400 feet of the property being developed are notified.

The Committee voted to require notification of owners of property located within 400 feet of proposed Level II and Level III projects, to post the property, and to notify the contact person(s) for the neighborhood(s) in which the project is proposed.

Mr. Gerald Green, Senior Planner, said that notices will be sent out 12 days prior to the meeting the project would be considered. He strongly encouraged neighborhoods to register a contact person with the Planning Department so that type of notification can be given.

Mr. Green then reviewed what type projects would fall into the different levels.

Councilman Skalski felt that the 400 feet notification area is not enough. He said that a lot of areas in the City do not have any neighborhood organizations and they would be at a disadvantage. He felt a better alternative would be to organize four or five neighborhood planning districts.

4. SHOULD THE DEFINITION OF USABLE OPEN SPACE EXCLUDE LAND WITH A SLOPE IN EXCESS OF 33% OR A SLOPE IN EXCESS OF 50%? (3-1 with Councilman Skalski voting "no" as an abstaining vote)

No standards for open space are set forth in the current Zoning Ordinance. Standards are set in the draft UDO, with staff recommending that areas with slopes of more than 33% not account for more than 50% of the required open space.

The Committee recommended that areas with slopes in excess of 33% account for no more than 50% of the required open space. Staff was directed to research other ways to encourage the protection of steep slopes.

Councilman Skalski noted that staff is researching other ways to encourage the protection of steep slopes.

5. SHOULD BED AND BREAKFAST ESTABLISHMENTS BE PERMITTED IN ALL RESIDENTIAL DISTRICTS? (2-2 with Councilman Cloninger voting "no" and Councilman Skalski voting "no" as an abstaining vote)

Bed and Breakfast establishments are currently permitted in the high density residential districts, but no standards exist for the development of B&B's. The UDO proposes reasonable standards for the development of B&B's and recommends that they be permitted in all residential districts.

The recommendation of the Committee was to prohibit B&B's in all single family districts and to permit them in all multi-family districts, with restrictions governing spacing, size, parking, activities, etc.

Councilman Cloninger wanted to clarify his position. He recommended prohibiting Bed & Breakfasts in all single family districts and permitting them in only the RM8 and RM16 multi-family districts, with restrictions governing spacing, size, parking, and activities.

Councilman Worley noted that staff is still looking at language on the smaller and larger Bed & Breakfasts and where they will be allowed.

Councilman Skalski stated he basically is in favor of Bed & Breakasts in the size and scale that are appropriate for every neighborhood in the City. He felt there should be a mechanism in place for groups and areas of the City to decide amongst themselves, using rules and regulations, to determine where and when they are appropriate. He didn't agree with prohibiting them in the R-1 districts.

6. SHOULD ACCESSORY APARTMENTS BE PERMITTED IN ALL RESIDENTIAL DISTRICTS? (4-0)

The draft UDO identifies accessory apartments as a permitted use in all residential districts, with limitations on size (750 sq. ft.), location on the lot, a limit of one accessory apartment per lot, etc.

The Committee recommended that accessory apartments be permitted with restrictions in all residential districts. The recommended restriction on size is 500 sq. ft. or 25% of the floor area of the principal structure, whichever is greater.

7. SHOULD SPECULATIVE GRADING BE PERMITTED? (2-2, with Councilmen Cloninger and Skalski voting "no".

The draft UDO allows speculative grading with a requirement for erosion control, buffer planting around the perimeter of the site and street trees along the street frontage, in accordance with prior direction given on this policy issue.

The Committee's vote was 2-2 on the issue of speculative grading.

Mr. Green said that speculative grading is currently permitted with no restriction and there are not many speculative grading sites in Asheville. Because of the relatively infrequent basis that it does occur, staff felt that it could be enforced with erosion control and landscaping measures.

Councilman Skalski felt that since it only occurs very infrequently, why would we want an ordinance allowing it. However, he did agree that there could be times where areas need to be graded for some particular reason.

Vice-Mayor Field said that if speculative grading does occur, there will be standards in place for enforcement. She said that speculative grading means that the plans for the project have not been approved yet.

Councilman Cloninger felt that a clear definition of speculative grading should address some concerns. He was of the opinion that when you speculatively grade the land, you actually limit the uses of the land and the creativity for preparing the land for a particular building.

Mayor Martin felt that grading the land might be maximizing the potential of the lot by making it easier to sell and develop.

Vice-Mayor Field didn't think that developers would want to cut trees unnecessarily because cutting them down is very expensive. She felt this was a difficult issue and suggested obtaining further public input.

Mr. Green said that they would work with the legal staff to write the definition of speculative grading.

Ms. Julia Cogburn, Planning & Development Director, said that if Council is trying to prevent a site that has been graded from just sitting vacant, that perhaps language be inserted that if a building permit has not been taken out within a certain number of days after the site has been graded, that they not only have to follow soil erosion control measures, but the landscaping provisions too.

8. SHOULD GRADING BE PERMITTED IN THE REQUIRED BUFFER AREA? (4-0)

The draft UDO prohibits grading in a strip with a minimum width of ten (10) feet along the side and rear property lines for sites over one (1) acre or permits grading in the buffer if the developer plants trees and shrubs 50% larger (caliper, height) than normally required in the buffer area.

The Committee voted to allow grading in the buffer, with the requirement that the a strip with a minimum width of 15 ft. be left undisturbed along the side and rear property lines for sites over one (1) acre or trees and shrubs 50% larger than normally required be planted in the buffer.

9. SHOULD THE GROUP DEVELOPMENT REVIEW PROCESS, WHICH REQUIRES REVIEW OF MAJOR PROJECTS BY P&Z AND CITY COUNCIL, BE RETAINED? (3-1 with Councilman Skalski voting "no")

The draft UDO eliminates the group development review procedure, authorizing staff to approve major projects (public notification is required for these projects). The UDO Steering Committee has recommended that significant projects would be subject to public hearings before P&Z and City Council.

The Committee recommended three levels of project review:

Level I
Review and approval by staff with no public notification;
Similar to existing small project review procedure;
Following projects would be in this category:
Residential: 3-7 units
Office/Institutional: 0-25,000 square feet gross floor area
Commercial: 0-35,000 square feet gross floor area
Industrial: 0-100,000 square feet gross floor area

Level II
Review and approval by Technical Review Committee ("TRC")
Surrounding property owners would be notified
Public comments accepted at TRC meeting
Appeals to the Planning & Zoning Commission
Following projects would be in this category:
Residential: 8-150 units
Office/Institutional: 25,000-200,000 square feet gross floor area
Commercial: 25,000-200,000 square feet gross floor area
Industrial: over 100,000 square feet gross floor area but less than 30 acres or more than 500 employees

Level III
Review and recommendation by TRC
Approval by City Council
Notification of surrounding property owners
City Council conducts public hearing as part of approval.

Following projects would be in this category:
Residential: more than 150 units
Office/Institutional: more than 200,000 square feet gross floor area
Commercial: more than 200,000 square feet gross floor area
Industrial: more than 30 acres or more than 500 employees

Councilman Worley noted that all parties concerned will know the rules from the beginning. He stressed that if the project meets the requirements of the ordinance, there is no need to hold a public hearing - especially since the City Council has no ability to turn it down. He then asked the planning staff to work with the legal staff to draft language that gives the City Council the ability to turn down a project.

Councilman Cloninger felt the Council should look at the draft language prior to submitting the draft for Planning & Zoning Commission review.

Vice-Mayor Field stated that the Committee also asked staff, while they were doing the mapping, to look at the thresholds to see if they "made sense". She noted that the staff recommendation is to eliminate the group development review process only.

Councilman Worley outlined the appeal procedure, stressing that appeals will be based on factual information.

Councilman Skalski felt that this item comes closest to contradicting what good planning should be. He said that 95% of the projects that come to the City will take the citizens out of the planning process. The only time the citizens can participate is at Level III, and that's about five projects per year. He felt this is taking the citizens out of the decision process and to only allow them to have input in the Level III is an insult to their intelligence.

Mayor Martin said that at only Level I is there no public input taken and he feels that the Planning staff is capable of rendering good decisions. He noted that public comments are accepted for the Level II projects.

Mr. Green said that the public input is being provided right now by helping develop the rules and regulations of the UDO. The UDO is able to be amended and the staff has been mandated to review the ordinance on an annual basis to make sure it continues to meet the needs of the citizens. He said we need to develop a dialog for citizens so they can continue to have input into the development of the rules and regulations to ensure that the development that happens in the City best benefits the City.

Councilman Skalski stressed that there needs to be impact statements for planning purposes. He felt there is no planning criteria in the UDO, only zoning.

Vice-Mayor Field responded to Councilman Skalski's suggestion of an impact statement. She reviewed the expertise of the TRC members. She said the make up of the TRC are representatives from the utilities, water, fire, traffic, police, building safety, etc. - each of which makes an analysis of their system for the proposed project - the only thing that is not being done is that it's all on one sheet of paper to be checked off.

Vice-Mayor Field then asked Council that if they want to incorporate the neighborhood planning districts that Councilman Skalski

strongly advises, that needs to be addressed now. She, however, feels that Asheville to too small to have those type planning districts.

10. SHOULD DEVELOPERS BE REQUIRED TO CONSTRUCT SIDEWALKS ALONG PUBLIC STREETS AND TO DEDICATE OPEN SPACE? (4-0)

The existing Zoning Ordinance does not require sidewalk construction in conjunction with any development. Sidewalks would be required for all non-residential developments, multi-family residential developments with more than 10 units, and single family development with more than 20 - 40 homes or lots. Open space would be required for all multi-family residential development, single family development with more than 20 lots/homes, and all other uses exceeding 50,000 square feet of gross floor area.

The Committee recommended that developers be required to construct sidewalks and to dedicate open space.

Councilman Worley said that staff has been asked to add standards to permit flexibility in design of sidewalks with consideration of topography and stormwater and also the requirement of open space.

11. SHOULD AN ADDITIONAL COMMERCIAL DISTRICT BE PROVIDED WHICH WOULD PERMIT MODERATE SIZE COMMERCIAL DEVELOPMENT? (4-0)

The draft UDO proposes the Community Business District which permits commercial development up to 12,000 square feet and the Highway Business District which permits commercial development up to 150,000 square feet. Is there a need for a Community Business II District which would permit commercial development up to 40,000 - 50,000 square feet?

The Committee recommended the creation of a Community Business II district with a maximum building size of 45,000 square feet.

12. SHOULD DUPLEXES AND QUADRAPLEXES BE PERMITTED IN ALL SINGLE FAMILY RESIDENTIAL DISTRICTS AS RESTRICTED USES? (RESTRICTIONS WOULD ADDRESS DESIGN AND SPACING) (4-0)

Only single family homes are permitted in the current R-1 single family district. This issue is not addressed in the UDO, but the suggestion to permit a limited amount of multi-family development in single family districts as a means of promoting affordable housing.

The Committee recommended that duplexes be permitted as a restricted use in all single family zoning districts and, additionally, that triplexes and quadraplexes be permitted as restricted uses in the high density single family district.

Vice-Mayor Field said that the community input and the impact statement issues need to be addressed. She suggested a small well-balanced community committee be established to come back to Council with a recommendation very quickly. Council needs a very clear decision and she would like to hear what the community has to say. These issues will come up over and over again until we address them. She wanted to make sure that when the final issues of the UDO are voted on that all of Council feels like they have been heard.

Councilman Worley said that we have set a very tight timetable and deferred to the other three members not on the UDO Committee to see if they are interested in that sort of process.

Mayor Martin didn't feel we needed to insert another level of decision-making.

Councilman Hay felt that the issues of impact statements and neighborhood planning districts could both be addressed at a later time.

At 4:10 p.m., Mayor Martin announced a ten minute recess.

Councilman Worley then reviewed the Advisory Committee recommendations as follows:

1. TREATMENT OF TRANSITION AREAS (4-0)

Transition areas are areas which are changing from residential uses to non-residential uses. The Advisory Committee recommended that these areas be addressed with a Transition Overlay Zone.

The Council Committee recommended that a model Transition Overlay District be included in the UDO, with a procedure for revising the standards to meet the specific needs of each transition area.

2. OFFICE AND INSTITUTIONAL DISTRICTS (4-0)

A. Reduce Width of Transition Area in Institutional District to 100 Feet

A transition area, designed to provide a gradual change from institutional areas to residential areas, with a width of 200 feet is proposed in the UDO. The Advisory Committee recommended reducing the width to 100 feet.

The Council Committee voted to recommend that the width of the transition area be reduced to 100 feet.

B. Increase Maximum Building Height in Office District to 60 Feet

The Office District is intended to serve as a transition area in many areas and a height limit of 40 ft. is proposed in the UDO, which would relate the district to adjacent residential districts. The Advisory Committee recommended that the height limit be increased to 60 feet.

The Council Committee recommended that the Office District standards permit a maximum height of four (4) stories, but not to exceed 60 feet.

C. Permit Broader Range of Uses in the Office and Institutional Districts

The Office District is intended to serve as an area for office development and will often serve as a transition from residential areas to commercial areas. The Institutional District is a higher intensity zone which is intended to reserve land for major institutional uses. The Advisory Committee recommended a broader range of uses in these districts which afford greater flexibility in development, but also reduce their ability to fulfill their intent.

The Council Committee recommended that the uses permitted in each district be broadened to permit flexibility in development, but limited enough to maintain the intent of the districts.

3. RIVER DISTRICT - USE OF YARDS

Standards developed for the River District are designed to protect the sensitive environment along the river banks and to limit damage from flooding. Among these are prohibitions on parking in the front setback (15') and on development (including parking and storage) in the River Resource Yard (50' from the top of the river bank). The Advisory Committee recommended that the required yards and setbacks in the River District be used in the same manner as in other districts.

The Council Committee recommended that parking be prohibited in the front yard, as it is in other districts with a minimal front yard requirement. Prohibition of development in the River Resource Yard was also recommended, with the staff directed to conduct additional research on this issue.

Councilman Worley said that the River Research Yard was originally set at 50 feet, but the Committee revisited it and asked staff to look at a flexible River Resource Yard (perhaps a minimum of 15-20 feet) based on lot depth.

4. LANDSCAPING AND BUFFERING STANDARDS

The standards in the UDO, developed by a committee, are designed to protect uses from adverse impacts of adjacent development and to improve the appearance of the community. The Advisory Committee recommended:

A. Requests for alternative compliance be heard by the TRC;
B. Four buffer yards with the following widths: 10', 15', 20, & 30';
C. Do not require buffers between single family residential uses; and
D. Permit posting of a bond or other form of surety to guarantee installation of landscaping.

The Council Committee recommended:

A. Agree, but place Tree and Greenway Commission member on the TRC;
B. Buffer yard widths of 15', 20', 25', & 30' (same as draft UDO
C. Agree
D. Agree

Councilman Cloninger asked that staff continue to work to "beef up" the landscaping requirements.

Vice-Mayor Field said that increase in landscaping was balanced by the requirement of less parking spaces.

5. SIMPLIFICATION OF THE REVIEW PROCESS (4-0)

The draft UDO identifies each step in the application and review process for each permit required for the development of land in Asheville. The Advisory Committee recommended that the description of the Downtown Design Review minor work review process be simplified; and that permit requirements be combined to simplify the process of obtaining development approval. The Advisory Committee also recommended that the combination of zoning permits and building permits be considered.

The Council Committee recommended that staff review the text describing the Downtown Design Review minor work review process for opportunities to simplify the text without impacting the description; and that staff revise the UDO to emphasize the simultaneous review of permit and development applications. The Committee also directed staff to investigate the feasibility of combining zoning and building permits.

6. MAJOR DEVELOPMENT REVIEW (3-1 vote, with Councilman Skalski voting "no")

The site plan review procedures established by the draft UDO do not require review by City Council of any development project, regardless of the size. The Advisory Committee recommended that significant projects (residential over 150 units; office, institutional, and commercial over 200,000 sq. ft.; and industrial more than 500 employees or more than 30 acres) be reviewed by City Council.

The Council Committee agreed with the Advisory Committee's recommendation, but want a way in which the Council can deny approval of projects.

7. PROVISION FOR PRIVATE STREETS (3-1, with Councilman Worley voting "no")

New residential lots created in the city's jurisdiction have long been required to abut a public street in order to assure access and provision of public services. The Advisory Committee recommended that private streets be permitted if they are constructed to city standards.

The Council Committee recommended that all residential lots be required to abut a public street, with a range of street design standards developed related to number of lots served.

Councilman Worley was opposed because he felt that we should permit residential lots abut private streets as long as there were appropriate standards in place when the private street was built.

There was some discussion on gated communities.

8. SIDEWALK AND OPEN SPACE REQUIREMENTS

The draft UDO establishes requirements for sidewalks and open space as a part of the development requirement for both residential and non-residential projects. The Advisory Committee recommended that this issue be addressed explicitly by the Planning and Zoning Commission and City Council prior to the adoption of the UDO. The Advisory Committee also encouraged alternative designs which would be sensitive to topography and the need to manage stormwater runoff.

The Council Committee recommended that this issue be addressed as a policy issue.

9. TIMELY RESPONSE TO PERMIT APPLICATIONS

The draft UDO establishes time limits for review and response for all development permit applications and for making decisions on the applications. The Advisory Committee recommended that the deadlines be reinforced by providing for the refunding of permit fees if a complete permit application is not acted upon within the time limit set by the UDO.

The Council Committee agreed with the Advisory Committee recommendation regarding the refunding of permit fees.

10. MAPPING OF GENERAL USE DISTRICTS

The Advisory Committee recommended that the staff work with smaller planning areas to prepare zoning maps of the proposed use districts and overlays.

The Council Committee endorsed this mapping (rezoning) procedure, which is currently being used by the staff. It was recommended that the mapping of the new districts be referred to as rezoning in an effort to generate interest in this element of the UDO.

11. AMENDMENTS TO ADMINISTRATIVE REQUIREMENTS

The Advisory Committee recommended revisions to the administration section of the UDO which could have a significant impact on the ability of the city to enforce the provisions of the ordinance. Three amendments to the administrative requirements were recommended, addressing interpretation of the ordinance; ability of staff and board/commission members to inspect project sites; and the right of "aggrieved property owners" to recover substantial fees from the city. The City Attorney's Office recommended against including any of these provisions in the UDO.

The Council Committee's recommendation was not to include these provisions in the UDO.

12. DEFINITION OF BUILDING HEIGHT (4-0)

The Council Committee's recommendation was to encourage working with the topography and that it did not penalize a builder or developer for including a basement and it also encourage pitched roofs as opposed to flat roofs, since the roof was not calculated in determining building height.

Mayor Martin asked that all comments be followed up in writing.

Ms. Leni Sitnick commented that (1) the public be provided with the Committee votes on all UDO issues presented today; (2) microphones be made available in front of Council members so the people in the back of the room can hear; (3) a member of staff be present at the early meeting between the developer and the residents so factual information can be given; (4) since the burden of finding out what's going on in the City should not be put on the residents, the City should use more public relations; (5) Council meetings should not be held during the day when most people are working; (6) consideration be given to a new zoning designation of open zone; (7) speculative grading limits the uses of the property; (8) the cost of cutting trees doesn't seem to make any difference; (9) there should be no grading in the buffer zone; (10) group developments need public input; (11) it's good to look for alternatives regarding sidewalks; (12) pervious materials should be used where possible; (13) the City needs an additional commercial district; (14) the Board of Adjustment members need to be properly oriented on what type of variances they can grant; and (15) impact fees really affect all of the UDO and the 2010 Plan. She asked if there is a provision that will allow the Board of Adjustment to grant variances on these very specific policy issues that the Council will decide on.

Ms. Cogburn said that the Board of Adjustment does not have the power to grant use variances or variances to procedure. They can only

grant variances for actual development standards, such as height requirements and setbacks.

Vice-Mayor Field said that if we didn't allow grading in the buffer, we wouldn't be able to put in utilities or driveways.

Ms. Beth Maczka, Director of the Affordable Housing Coalition, commented that the reduction of multi-family areas is disproportionately affecting low to moderate renters. They do not want to lose areas where multi-family housing is allowed. We feel strongly about allowing triplexes and quadraplexes should be allowed in every zoning districts, as in-fill housing if it meets the size, the design and criteria of other structures.

Upon inquiry of Vice-Mayor Field about creating non-conformities, Ms. Cogburn said that Council can set a goal about not creating non-conformities and that each area would need to be looked at individually.

Mr. Mike Lewis said (1) that there should be some reference in the UDO that the comprehensive plan is in fact the 2010 Plan; (2) that the UDO should be more user friendly; (3) that crosswalks are also needed in addition to sidewalks; (4) that there is only one mention of the developer meeting with the neighborhood and that is in the planned unit development section implying that this is the only time developers need to talk with the neighborhood; (5) that there is no language in the UDO on who maintains the buffer once it's put up; (6) that there needs to be some terminology clarification; and (7) there is a problem with the lack of group development review. He asked how do we keep neighborhoods from being eroded away. The UDO sets criteria for development but it doesn't set any criteria for the preservation of neighborhoods.

MUNICIPAL BUILDING RENOVATIONS

Mr. Doug Spell, Assistant City Manager, said that staff is providing additional information as requested by City Council with regard to the Municipal Building Renovations.

At the May 21, 1996, City Council meeting, City staff presented information to City Council regarding the Municipal Building renovations. The information presented was based upon an architectural/engineering evaluation and recommendations for the Municipal Building. The recommendation presented at that meeting was based on Option 6 of the consultant study performed by ENG/6A which included the continuing use of the Municipal Building by the Fire Department and the Police Department. Preliminary design concepts were summarized for City Council which included the utilization of the Court Plaza entrance by the Police Department and establishing an Eagle Street entrance for use by the Fire Department consisting of Fire Administration and three fire companies.

Following the presentation on this item, it was the consensus of City Council to do the following:

- Leave the funds in the Capital Improvements Plan for the Municipal Building renovations;
- Take a tour of the Municipal Building;
- Staff obtain input from the community regarding the pros and cons of the proposed renovations;

- Staff report back with additional information to City Council within 60 days.

City staff organized a meeting with the community which was held on June 17, 1996. City staff notified churches, business establishments, property owners, Historic Resources Commission, Downtown Commission, and Downtown Association members, and other groups of the proposed meeting. The meeting was attended by approximately 62 community representatives and 16 City staff members. City staff had prepared an agenda and an outline of items to be discussed. However, representatives of the community requested that the proposed agenda not be followed and that they simply allow them to express their concerns.

A list of "Issues Raised By Attendees" from the community input session was prepared. The input received was not supportive of having the Fire Department located along the Eagle Street entrance of the Municipal Building. Also, it was indicated that it was preferred to have more of a "police presence" along the Eagle Street corridor. Representatives from the Historic Resources Commission outlined their concern which pertained to what they indicated to be a significant architectural change from the original design where both Police and Fire were located along the Court Plaza entrance of the building. The question was also raised as to how the proposed Municipal Building renovations project would be a "catalyst" as indicated by staff. Staff outlined the cost associated with the proposed project and how the investment and appearance could be an incentive to other property owners and businesses to purchase and renovate property in the area. In a letter dated June 26, 1996, City staff outlined our appreciation for the input from the community and provided information following up on the meeting.

Based upon the information received at the community input session, City staff has revised the recommendation and tailored it so as to address the issues raised at the meeting. This recommendation would be to proceed with the Municipal Building renovations with both the Police Department and Fire Department having primary access from the Court Plaza entrance of the building. However, a secondary entrance would be developed along the Eagle Street portion for employee use. The area between Eagle Street and the building will be developed as a paved parking area with appropriate landscaping to enhance the area. This parking area would be utilized by police officers for functions such as the patrol division.

This proposal seems to address all concerns expressed from the meeting. It maintains the original architectural design and historical significance of the building, a concern raised by the Historic Resources Commission. It eliminates the concern of increased noise from sirens and diesel engines from Fire vehicles. The utilization of this parking area improves the police presence in the Eagle Street area.

Based on preliminary review of costs, this proposal would still be in line with the budget figures included in the FY 1997 Capital Improvements Budget. It would also facilitate moving forward to bring the building up to compliance with State Building Code and ADA requirements while improving the facility for permanent and continuing use of the building by the Police Department and Fire Department.

Staff recommends that the concept of maintaining the current design of the building, whereby the Police Department and the Fire Department utilize the Court Plaza entrance, be maintained thereby addressing the concerns of the community and maintaining the historic significance of the facility. Should City Council concur with this recommendation,

staff requests authorization to proceed with the process of design and programming of space for the Municipal Building renovations in order to move forward with construction within the next twelve months. In this regard, staff requests approval and authorization to enter into an architectural/engineering design service contract with ENG/6A, the firm which has performed the preliminary design/review for the project. Staff has contacted Council members to organize a tour of the Municipal Building.

Mr. Spell said that he did receive a letter from Dr. Grant dated July 15, 1996, outlining some additional issues that were not included in the list of the issues raised.

Upon inquiry of Councilman Hay, Mr. Spell stated that City staff approached this design as a team and feel that this design meets all the interests.

Vice-Mayor Field noted that Council is trying to get a balance in this design. She noted that the community will still want the entrance of the Police Department to be on the Eagle Street side, even though the Historic Resources Commission is opposed to putting any entrance, Police or Fire, at the rear of the building.

Upon inquiry of Vice-Mayor Field, Mr. Spell said that there will be an additional cost associated with programming and the conceptual design plan.

Upon inquiry of Councilman Cloninger, Mr. Spell felt that the City could have a pre-construction conference around a year from now.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

WILSHIRE PARK REZONING PETITION

Mr. Carl Ownbey, Urban Planner, said that this petition requests that 112 lots in the Wilshire Park area off Patton Avenue be rezoned from R-3 Medium Density Residential to R-1A Single Family, Moderate Density Residential.

The subject property is approximately 54.32 acres. The 112 lots are located within the area called Wilshire Park which is directly west of Patton Avenue. The 2010 Plan recommends this area to be low density residential.

Of the 112 lots, 109 have single family residential structures, one lot is owned by the church and two lots are currently vacant. All of the 112 lots conform to the R-1A standard which is minimum lot size of 5400 square feet and minimum lot width of 50 feet. The petition contains 96 verified property owner signatures or 85% of the property owners and the 96 lots constitute 71% of the land area.

The Planning staff reviewed the petition and recommends that the 112 lots in the Wilshire Park area be sent to the Planning & Zoning Commission for review.

When Mayor Martin asked if this rezoning petition would overload our Planning staff, keeping in mind that the UDO is Council's highest priority, Ms. Cogburn said that the biggest task will be the notification process required. Even though it is mostly clerical, it does take time.

Upon inquiry of Councilman Worley, Mr. George Watt, Treasurer of the Wilshire Park Community Club, said that there is a 3 acre piece of property in which the owner could build 16 units per acre on stressing the need to start the rezoning petition and not wait on the UDO mapping to be completed.

Council struggled with asking for the Planning Department to do the study or wait until the UDO mapping is complete, noting that the mapping of the west area has not started yet.

Mr. Watt explained the responses received from those few who did not sign the rezoning petition.

Councilman Sellers moved to proceed with appropriate action at the next formal meeting asking the Planning Department to proceed with a study of this area. This motion was seconded by Councilman Hay and carried unanimously.

Ms. Cogburn noted that the study would be brought to the Planning & Zoning Commission for their recommendation as quickly as possible, but it probably wouldn't be until their September or October meeting.

PRITCHARD PARK UPDATE

Mr. Irby Brinson, Director of Parks & Recreation, said that the Parks and Recreation Department is given the responsibility of coordinating the design and renovation of Pritchard Park after the bus transfer station has been relocated.

In 1994, City Council approved the establishment of the Pritchard Park Task Force to explore various options for the redesign of Pritchard Park once the bus transfer station was relocated. This Task Force spent a considerable amount of time and energy in soliciting public input in regard to future expectations for Pritchard Park. Through the efforts of this Task Force, information and data was collected and summarized which was used to formulate a Request for Qualifications Proposal to begin conceptual design for Pritchard Park. The Parks and Recreation Department wishes to make available to interested consultants the information that was previously compiled by the Task Force. A total of $50,000 is recommended in the FY 96/97 capital improvement budget which would be used to fund this phase which includes planning, design, construction and contract documents. If adequate funds are available, the current bus shelter would be demolished as soon as possible after the Asheville Transit Authority relocates. Also, recommended in the FY 97/98 budget is a total of $200,000 which will be used to renovate the park. It should be noted at this point that Parks and Recreation needs guidance from City Council regarding the scope of this project. If Council agrees, it is our intention to request from the consultant selected at least three distinctly different conceptual designs ranging from the most basic design ($200,000 limit) to the more elaborate solutions. The final conceptual design that will be accepted will be based upon the total amount of money allocated for this project. If City Council approves allocating only the $200,000 currently recommended in the Capital Improvement Plan for this project, then the conceptual design would address the basic needs of the park. If additional funding is approved or provided from the private sector, then other enhancements would be added to the park based upon the final budgeted figure. It is anticipated that this Request For Qualifications would be sent out sometime in early August, a consultant selected in September or October, and final design and construction documents will be completed sometime after February of 1997 when the bus station is moved. The actual construction would begin in August of 1997.

The Parks and Recreation staff and the Pritchard Park Task Force recommend approval to proceed with the request for qualifications for design of Pritchard Park.

There was some discussion about the Task Force committee makeup and who would make good committee members in that area.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

COUNCIL/STAFF RETREATS

City Manager Westbrook said that based on recent discussions with members of City Council, staff requests consideration of a new proposal concerning the retreat process.

City staff and Council annually attend a retreat. It is usually held outside the City, which draws both Council and staff away from the pressing, every day job requirements and communications, such as fax machines, e-mail and telephone calls. This allows large blocks of uninterrupted time by the key decision makers of the City to discuss problems and to formulate plans for the future. The last several retreats have lasted approximately one and a half days and have been attended by City Council, management staff, all Department Directors and other specified staff on an as-needed basis. The retreats usually cost several thousand dollars, which is essentially payment for an overnight stay and the meals consumed during the retreat.

After discussing the process with Council Members, it appears that two retreats a year may be more appropriate than one large retreat. As an example, Council and staff could meet in the fall of the year for a weekday afternoon mini-retreat at the North Fork Conference Center to discuss long-range planning issues. The second retreat could be held in the January/February time frame to discuss budgetary items, and related budgetary policy issues. The Council could also set the goals and objectives for the next fiscal year at the second retreat. The second retreat could be held at any location the Council chooses.

If City Council believes this would be a more appropriate way to accomplish the objectives for the retreat process, staff would like to immediately start to accumulate the information/data for the fall retreat. If the Council chooses to have a planning retreat during the month of September, I would recommend that we have it on a Friday afternoon from 1:00 PM until 6:00 PM, ending with a meal. The Friday afternoons available in September are as follows: September 13 and 27. On September 20 the Asheville Chamber of Commerce is conducting a visit to San Antonio in which Council or staff may participate.

It was the consensus of Council to have their fall retreat on Friday, September 13, 1996, as outlined by the City Manager.

At this time, 6:18 p.m., Councilman Worley left the meeting.

TASK FORCE ON THE FUTURE OF THE CIVIC CENTER

City Manager Westbrook said that the Asheville Civic Center opened in 1974. The facility was designed as a regional center for civic, cultural, commercial and conference activities. At its opening, it included the largest arena in Western North Carolina and the upstate of South Carolina (seating 7,654). It also included a newly created performing arts space (seating 2,423). Space was also created for

exhibits (25,148 square feet) plus one major banquet room and eleven smaller conference rooms (totaling 10,774 square feet).

The facility has served the community well, and as anything that sees significant use, it is in need of some improvements and renovations. Minimal near-term needs include replacing air conditioning equipment, bleachers, emergency generator replacement, plaster repair and further ADA enhancements. These are estimated to be in excess of one million dollars. Other renovations and changes have been estimated as high as eight million dollars.

The position the facility held when it opened has eroded.

Since the Civic Center opened in 1974, a number of changes have taken place in the region which have negatively impacted the Civic Center's ability to draw customers and provide a revenue base to maintain the facility for its intended use. As an example, the Civic Center is no longer the largest arena in Western North Carolina and upstate of South Carolina. Cullowhee has 8,100 seats and the new Greenville Bi-Lo arena will have 17,000+ seats. New performing arts spaces have also been created since its opening including the Diana Wortham Theatre, (225 seats), and the Peace Center, (2,500 seats). Exhibit and banquet spaces have also been added. As an example, the Palmetto Expo Center, (120,000 square feet), and the Benton Convention Center, (90,000 square feet).

The erosion of the Civic Center's status as the largest arena in the western Carolinas has been noted by City Council, along with the other factors mentioned above. At a recent City Council meeting, the Council directed the City Manager and the Civic Center Director to recommend to the Council a method for determining the Civic Center's future, including the source of sufficient funding for operations, maintenance, renovations and/or expansion. The City Manager, the Civic Center Director and other key staff personnel have met to discuss the problem and to formulate a recommendation for City Council.

Based on directions given by City Council and discussion, staff provides the following recommendations:
Staff recommends City Council establish a Task Force on the future of the Civic Center. The Task Force would be composed of three Council Members and two Civic Center Commission Members.

The mission of the Civic Center Task Force would be to make recommendations to City Council regarding the future of the Civic Center. Specifically, the recommendation will include the following:

1. What is the best use of the Civic Center for the future?

2. Where will the money come from to fund any major improvements to alter the use of the Civic Center or to make major improvements and/or renovations?

City Council encourages the Task Force to be innovative in its approach to accomplishing the mission. City Council also encourages the Task Force to be inclusive in its discussions with the community by involving individuals and groups who will provide the needed information. The Task Force should complete its report and present findings to City Council no later than Tuesday, March 4, 1997. The Task Force should provide a written interim report no later than November 1, 1996, which will give the status of the Task Force's work to that point in time.

The City Manager will provide any necessary coordination and staff for the Task Force through the Civic Center Director. Funds are not currently appropriated for the Task Force. Should the Task Force need additional resources, such as professionals knowledgeable in the areas of civic center, convention center and resort center management, planning and financing of such facilities, a specific request should be made to the City Council, detailing the need, expected results and anticipated costs.

Councilman Hay, City Council liaison on the Civic Center Commission, felt this was a good idea.

Mayor Martin appointed Councilman Hay as Chairman, and Councilmen Sellers and Worley to be the City Council members on the task force.

Vice-Mayor Field stated that it was very important that the downtown interests be represented because the mix of events in the Civic Center does affect them substantially.

Councilman Hay said that he would meet with Mr. Toomey, Chairman of the Civic Center Commission, for their input on who the Civic Center Commission members on the Task Force might be. He did note that most members are new and perhaps they might want to delegate their authority to a former Commission member. He said that he would come back with a recommendation to the Council on the other two members.

It was the consensus of Council to establish a Task Force on the future of the Civic Center as outlined above by the City Manager.

CONSENT:

Demolition of 20 Georgia Avenue, also known as, 20 Atlanta Avenue

Summary: This resolution will set a public hearing on August 13, 1996, to consider an ordinance directing demolition of 20 Georgia Avenue, also known as 20 Atlanta Avenue.

Demolition of 211 South Beaumont Street

Summary: This structure is located in Central Asheville with an address of 211 South Beaumont Street. Over the years, the Building Safety Department has received numerous complaints from neighboring property owners. The structure is a two-story wooden frame house that has been extensively neglected over the years resulting in substantial deterioration and dilapidation. The unfit structure repeatedly and continuously attracts vagrants as illegal occupants. The Code Enforcement Officer's efforts to eliminate this nuisance has been frustrated by the inability to locate the current owner and a lack of knowledge of the whereabouts of the record owner. After requesting assistance from the Legal staff in the summer of 1995 and receiving same in July of 1995, notice to the absentee owner was published and a hearing was conducted before the Code Enforcement Officer on December 4, 1995.

Subsequent to the December 4, 1995, hearing, the Code Enforcement Officer was contacted by the owner's daughter, Dorothy Dean. Ms. Dean informed the Code Enforcement Officer that her mother, Louise G. Mims was deceased and that she and her son were the heirs to the mother's estate. Ms. Dean further advised Code Enforcement Officer that she had talked with her son and they were both in agreement that the structure located at 211 South Beaumont Street should be demolished. However, Ms. Dean stated that neither she nor her son were financially able to cause

the structure to be demolished and removed. Ms. Dean stated that she and her son had no problem with the City immediately proceeding with the demolition of the structure. Ms. Dean, who is a widow, and her son along with his wife, have executed appropriate forms to allow the City to dispense with all further procedures required by law to protect the interest of the property owners. Ms. Dean and her son desire for the City to immediately proceed with the demolition and removal of the structure and to place a lien against the property for the cost of the demolition.

- Fair market value of house is $14,500
- Value to rebuild the house only is $76,140.00
- Land value without the house is $19,200.00
- Estimated cost to demolish this house was not available

The Building Safety Director recommends adoption of the ordinance.

Acceptance of Property at Larchmont and Merrimon

Summary: The Asheville Parks and Recreation Advisory Board has been approached by the Grace Neighborhood Residents Association to accept a piece of property located at the corner of Larchmont and Merrimon Avenues for the purpose of using it as an urban pocket park and greenspace. The property is currently owned by Judge Dom Greishaber. He has expressed an interest in donating this property to the City of Asheville if the back taxes could be paid. The Grace Neighborhood Residents Association has solicited pledges to pay for these back taxes which total approximately $3,600. The Parks and Recreation Advisory Board is requesting approval from City Council to accept the property pending the following conditions:

1. A letter received from the Grace Neighborhood Residents Association agreeing to pay the back taxes on the property.

2. A letter received from the owner of the property stating that he will donate the property free of charge to the City of Asheville.

3. Successful completion of the Phase I Environmental Assessment of the property.

4. Complete survey of the property and title search.

The Parks and Recreation Department recommends that City Council approve the acceptance of the property at the corner of Larchmont and Merrimon pending completion of the above requirements.

Bureau of Justice Assistance Grant

Summary: Under the subject program, the City of Asheville is eligible to apply for $116,231. A local cash match of $12,915 is required bringing the total project costs to $129,146. Funds must be used for the purpose of reducing crime and improving public safety.

The Police Department is seeking federal support for a project authorized under the Bureau of Justice Assistance Local Law Enforcement Block Grants Program. The specific purpose/project, which must meet program guidelines, will be determined pursuant to a public hearing and non-binding recommendations of an advisory board established by the City. The City will receive the funds and hold them in a trust fund until expended. Program funds must be expended within a 24 month period after award. Any unexpended funds must be returned to the Bureau of Justice Assistance.

The application for program funds must be received by the Bureau by August 9, 1996. Awards will begin in mid-September, 1996.

Clerk to Advertise Offer of Purchase for Upset Bids regarding Tract 3 in the Head of Montford Redevelopment Project

Summary: Tract 3 is a residential lot on Short Street comprising 5,532 square feet. The bid from J. C. and Shirley Dozier for Tract 3 includes no plans to build on the lot but Tract 3 is to be assembled with property currently owned by the Doziers.

The bid of Mr. and Mrs. Dozier, in the amount of $3,300.01, is not less than the established minimum price of $3,300.

This resolution will initiate the sale of the property through the upset bid process.

Clerk to Advertise Offer of Purchase for Upset Bids regarding Disposal Parcel 2B in the East Riverside Redevelopment Project

Summary: Disposal Parcel 2B is a CS Commercial Service lot located approximately 200 feet south of the intersection of Asheland and Hilliard Avenues comprising 29,344 square feet. The lot is generally rectangular in shape and mostly flat at street level to a depth of about 150 feet then dropping sharply about 15 feet with the rear of the lot being on grade with South Grove Street. The bid from Dr. Albert Bernard Anderson includes the proposal to construct a single story medical office building containing 4,300 square feet on grade with Asheland Avenue. The development proposal includes paved parking and landscaping. The buildng will be occupied by Dr. Anderson's opthamological practice.

The bid of Dr. Anderson, in the amount of $117,400 is not less than the established minimum price of $17,400.

This resolution will initiate the sale of the property through the upset bid process.

Clerk to Advertise Offer of Purchase for Upset Bids regarding Disposal Parcel 3B in the East Riverside Redevelopment Project

Summary: Disposal Parcel 3B is a fragment lot located on the west side of South Grove Street comprising 4,665 square feet. The lot is irregular in shape and mostly flat about three feet above street level. The bid from Gertrude D. Jones includes the proposal to combine the property with property currently owned by Ms. Jones at 99 South Grove Street. No construction is planned.

The bid from Ms. Jones, in the amount of $2,200 is not less than the established minimum price of $1,800.

This resolution will initiate the sale of the property through the upset bid process.

Establishment of Just Compensation for 50 Morrow Street in the Head of Montford Redevelopment Project

Summary: 50 Morrow Street is located at the northwest corner of the Morrow Street block. It is generally rectangular in shape containing 3,776 square feet. A one story, frame single family residence is located on the property. Its highest and best use per the appraisal is residential as permitted by the zoning. It is to be

acquired as part of a small subdivision encompassing the Morrow Street block that will provide sites for affordable housing. The owner has requested that the property be acquired and the parcel is important to the successful development of the subdivision.

50 Morrow Street was appraised by David Moore, MAI, and the appraisal was reviewed by Francis Naeger, MAI, who concurred and recommended the appraised value of $18,500 as fair market value.

It was the consensus of Council to take appropriate actions on the Consent Agenda at the next formal meeting.

BROADWAY

Councilman Cloninger said that Mayor Martin had asked that he, Vice-Mayor Field and Councilman Hay serve on a Greenway Committee with staff. An issue has arisen on Broadway that needs to be attended to quickly. He asked that City Council do a review of the zoning along the Broadway area to see if changes need to be made and asked the Planning Department to institute a small area plan or other appropriate plan for that area.

Ms. Julia Cogburn, Planning & Development Director, said that looking at the request from a staffing issue, she can bring back the review of the zoning in a couple of weeks. However, in terms of conducting a small area plan, she didn't have the staff to do that. If Council is looking at a corridor study, however, there might be some resources that can be tapped with our transportation funds.

Since City Council can initiate a rezoning study, Vice-Mayor Field recommended staff look into rezoning the areas of concern.

It was the consensus of Council that the Greenway Committee meet with Planning staff and come back to the full Council with a recommendation.

Ms. Leni Sitnick said that the Tree Commission has made this request to City Council. On behalf of the Tree Commission, she urged Council to support this request because there is an emergency situation on Broadway that needs attention immediately.

CLOSED SESSION

At 6:40 p.m., Councilman Hay moved to go into closed session, as authorized by G.S. 143-318.11 (a) (3) to consult with the City Attorney to preserve the attorney-client privilege; and (2) as authorized by G.S. 143-318.11 (a) (6) to consider the qualifications of employment of an individual officer or employee. This motion was seconded by Councilman Cloninger and carried unanimously.

At 7:13 p.m., Councilman Hay moved to come out of closed session. This motion was seconded by Councilman Cloninger and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:13 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - July 23, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; and Councilman Charles R. Worley; Assistant City Attorney Patsy Meldrum; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman James J. Skalski

INVOCATION

Reverend Charles Mosley gave the invocation.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO ANNEXATION OF PROPERTY LOCATED WEST OF OVERLOOK ROAD AND KNOWN AS GLEN OAKS, PHASE 3 (SECTION 7 OF BRAESIDE AT BILTMORE PARK)

ORDINANCE NO. 2304 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE BY ANNEXING A CONTIGUOUS AREA LOCATED WEST OF OVERLOOK ROAD AND KNOWN AS GLEN OAKS, PHASE 3 (SECTION 7 OF BRAESIDE AT BILTMORE PARK)

Mayor Martin opened the public hearing at 5:05 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Esther Manheimer, Intern in the Planning Department, said that this area is the seventh annexation petitioned by Biltmore Farms, Inc., for property located west of Overlook Road. The area consists of a 9.512 acre tract. This area is contiguous to corporate limits, specifically to Biltmore Park, Section 6, which was annexed effective December 27, 1995. The petitioner has asked that the annexation be effective six months from now, which would be January 23, 1997. Conservatively estimating a tax value of $250,000 per lot when developed, this annexation would increase the City's tax base by $5.5 Million with the resulting revenue of $31,350 annually at the current tax rate.

Mayor Martin closed the public hearing at 5:08 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2304. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2304 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 53

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. ORDINANCE NO. 2305 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 211 SOUTH BEAUMONT STREET

Ms. Natalie Berry, Housing Inspectors, said that this structure is located in Central Asheville with an address of 211 South Beaumont Street. Over the years, the Building Safety Department has received numerous complaints from neighboring property owners. The structure is a two-story wooden frame house that has been extensively neglected over the years resulting in substantial deterioration and dilapidation. The unfit structure repeatedly and continuously attracts vagrants as illegal occupants. The Code Enforcement Officer's efforts to eliminate this nuisance has been frustrated by the inability to locate the current owner and a lack of knowledge of the whereabouts of the record owner. After requesting assistance from the Legal staff in the summer of 1995 and receiving same in July of 1995, notice to the absentee owner was published and a hearing was conducted before the Code Enforcement Officer on 12/4/95.

Subsequent to the 12/4/95 hearing, the Code Enforcement Officer was contacted by the owner's daughter, Dorothy Dean. Ms. Dean informed the Code Enforcement Officer that her mother, Lousie G. Mims was deceased and that she and her son were the heirs to the mother's estate. Ms. Dean further advised Code Enforcement Officer that she had talked with her son and they were both in agreement that the structure located at 211 S. Beaumont Street should be demolished. However, Ms. Dean stated that neither she nor her son were financially able to cause the structure to be demolished and removed. Ms. Dean stated that she and her son had no problem with the City immediately proceeding with the demolition of the structure. Ms. Dean, who is a widow, and her son along with his wife, have executed appropriate forms to allow the City to dispense with all further procedures required by law to protect the interest of the property owners. Ms. Dean and her son desire for the City to immediately proceed with the demolition and removal of the structure and to place a lien against the property for the cost of the demolition.

- Fair market value of house is $14,500
- Value to rebuild the house only is $76,140
- Land value without the house is $19,200
- Estimated cost to demolish this house is approximately $11,000

The Building Safety Director recommends adoption of the ordinance.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2305. This motion was seconded by Councilman Sellers.

On a roll call vote of 6-0, Ordinance No. 2305 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 55

B. RESOLUTION NO. 96-129 - RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT WITH ENG/6A FOR ARCHITECTURAL/ENGINEERING SERVICES FOR THE MUNICIPAL BUILDING

ORDINANCE NO. 2306 - BUDGET AMENDMENT RELATIVE TO FUNDING DESIGN OF MUNICIPAL BUILDING RENOVATION PROJECT

Councilman Cloninger said that his law firm has a long-standing relationship with ENG/6A. They don't specifically represent them in connection with this proposed contract, but as a result of that relationship, he asked to be excused from voting. Vice-Mayor Field moved to excuse Councilman Cloninger due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously.

Mr. Doug Spell, Assistant City Manager, said that as a result of the discussions held at the Council worksession on July 16, 1996, staff recommends proceeding with the Municipal Building renovations with both the Police Department and Fire Department having primary access from the Court Plaza entrance of the building. However, a secondary entrance would be developed along the Eagle Street portion for employee use. The area between Eagle Street and the building will be developed as a paved parking area with appropriate landscaping to enhance the area. This parking area would be utilized by police officers for functions such as the patrol division.

Adoption of this resolution will authorize a contract with ENG/6A, the firm which has performed the preliminary design/review for the project, to proceed with the process of design and programming of space for the Municipal Building renovations in order to move forward with construction within the next twelve months. This will also facilitate moving forward to bring the building up to compliance with State Building Code and ADA requirements while improving the facility for permanent and continuing use of the building by the Police Department and Fire Department.

An existing project fund, in the amount of $100,000, was approved by City Council in 1994 for a preliminary feasibility study for the Municipal Building. This action will combine $225,000 in funding in the Fiscal Year 1995-96 Capital budget and $550,000 in funding in the 1996-97 Capital budget to increase the total project budget to $885,000. This will provide funds for "front end design" costs which will be incurred before a financing plan are in place.

A budget amendment, in the amount of $775,000, is necessary to fund costs for the design of the Municipal Building. This budget amendment will address the cost associated with moving forward with the project up to the construction phase. At that point, the City would have to sell Certificates of Participation to fund the actual construction for this project.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and the ordinance and they will not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 96-129. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 252

Councilman Worley moved for the adoption of Ordinance No. 2306. This motion was seconded by Councilman Sellers.

On a roll call vote of 5-0, Ordinance No. 2306 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 64

C. **TASK FORCE ON THE FUTURE OF THE CIVIC CENTER**

City Manager Westbrook said that at a recent City Council meeting, the Council directed the City Manager and the Civic Center Director to recommend to the Council a method for determining the Civic Center's future, including the source of sufficient funding for operations, maintenance, renovations and/or expansion. The City Manager, the Civic Center Director and other key staff personnel have met to discuss the problem and to formulate a recommendation for City Council.

Based on directions given by City Council and discussion, staff provides the following recommendations: Staff recommends City Council establish a Task Force on the future of the Civic Center. The Task Force would be composed of three Council Members and two Civic Center Commission Members.

The mission of the Civic Center Task Force would be to make recommendations to City Council regarding the future of the Civic Center. Specifically, the recommendation will include the following:

1. What is the best use of the Civic Center for the future?

2. Where will the money come from to fund any major improvements to alter the use of the Civic Center or to make major improvements and/or renovations?

City Council encourages the Task Force to be innovative in its approach to accomplishing the mission. City Council also encourages the Task Force to be inclusive in its discussions with the community by involving individuals and groups who will provide the needed information. The Task Force should complete its report and present findings to City Council no later than Tuesday, March 4, 1997. The Task Force should provide a written interim report no later than November 1, 1996, which will give the status of the Task Force's work to that point in time.

The City Manager will provide any necessary coordination and staff for the Task Force through the Civic Center Director. Funds are not currently appropriated for the Task Force. Should the Task Force need additional resources, such as professionals knowledgeable in the areas of civic center, convention center and resort center management, planning and financing of such facilities, a specific request should be made to the City Council, detailing the need, expected results and anticipated costs.

Councilman Hay, liaison to the Civic Center Commission, thought the idea of the Task Force was a great idea and felt it was about time to make some choices on what kind of Civic Center this should be. He thinks this is a good opportunity to do something very special with the Civic Center, but they want to be thoughtful about it and involve the community. He said the starting point is to find out what the community wants to do and issued an open invitation to community to begin communicating with the Task Force individually or as a group. He did meet with the Civic Center Commission regarding who they would like their appointments to be on the Task Force. They suggested current Chairman Stephen Toomey, former Chairman Jan Davis and former Vice-Chairman Barbara Halton. They all have agreed to serve and are ready to start.

City Manager Westbrook noted that the Civic Center may be fine just as it is, but a concern is that some massive capital changes need to be made. If there needs to be a change, we will need to spend the

money in the direction that's best for the future. The Committee will also be looking at how the changes will be financed. He said that staff is ready to support the Task Force in any way possible.

Vice-Mayor Field moved to appointed Councilman Hay as Chairman, Councilman Sellers, Councilman Worley, Stephen Toomey, Jan Davis and Barbara Halton as members of the Civic Center Task Force. This motion was seconded by Councilman Cloninger and carried unanimously.

V. CONSENT:

At the request of Vice-Mayor Field, Item E and H were removed from the Consent Agenda to be discussed individually.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 9, 1996, AND THE WORKSESSION HELD ON JULY 16, 1996

B. RESOLUTION NO. 96- 130 - RESOLUTION CALLING FOR A PUBLIC HEARING ON AUGUST 13, 1996, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 20 GEORGIA AVENUE, ALSO KNOWN AS 20 ATLANTA AVENUE

RESOLUTION BOOK NO. 23 - PAGE 253

C. RESOLUTION NO. 96-131 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT THE DONATION OF PROPERTY LOCATED AT THE CORNER OF LARCHMONT AND MERRIMON AVENUES TO BE USED BY THE PARKS AND RECREATION DEPARTMENT

Summary: The Asheville Parks and Recreation Advisory Board has been approached by the Grace Neighborhood Residents Association to accept a piece of property located at the corner of Larchmont and Merrimon Avenues for the purpose of using it as an urban pocket park and greenspace. The property is currently owned by Judge Dom Greishaber. He has expressed an interest in donating this property to the City of Asheville if the back taxes could be paid. The Grace Neighborhood Residents Association has solicited pledges to pay for these back taxes which total approximately $3,600. The Parks and Recreation Advisory Board is requesting approval from City Council to accept the property pending the following conditions:

1. Receipt by the City of a letter from the property owner stating that he will convey the property to the City, without any cost to the City.

2. Receipt by the City of a letter from the Grace Neighborhood Residents Association that all past due taxes on the property have been paid, along with a receipt from the Buncombe County Tax Collector showing said payment.

3. Successful completion of the Phase I Environmental Assessment of the property, at no cost to the City.

4. Completion of survey of and title search for the property.

The Parks and Recreation Department recommends that City Council approve the acceptance of the property at the corner of Larchmont and Merrimon pending completion of the above requirements.

RESOLUTION BOOK NO. 23 - PAGE 255

D. RESOLUTION NO. 96-132 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE AN APPLICATION WITH THE U.S. DEPARTMENT OF JUSTICE FOR AN ASSISTANCE GRANT TO REDUCE CRIME AND IMPROVE PUBLIC SAFETY.

Summary: Under the subject program, the City of Asheville is eligible to apply for $116,231. A local cash match of $12,915 is required bringing the total project costs to $129,146. Funds must be used for the purpose of reducing crime and improving public safety.

The Police Department is seeking federal support for a project authorized under the Bureau of Justice Assistance Local Law Enforcement Block Grants Program. The specific purpose/project, which must meet program guidelines, will be determined pursuant to a public hearing and non-binding recommendations of an advisory board established by the City. The City will receive the funds and hold them in a trust fund until expended. Program funds must be expended within a 24 month period after award. Any unexpended funds must be returned to the Bureau of Justice Assistance.

The application for program funds must be received by the Bureau by August 9, 1996. Awards will begin in mid-September, 1996.

RESOLUTION NO. 23 - PAGE 257

E. RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE TRACT 3 IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

This item was pulled from the Consent Agenda to be discussed individually.

F. RESOLUTION NO. 96-133 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE DISPOSAL PARCEL 2B OF THE EAST RIVERSIDE REDEVELOPMENT PROJECT

Summary: Disposal Parcel 2B is a CS Commercial Service lot located approximately 200 feet south of the intersection of Asheland and Hilliard Avenues comprising 29,344 square feet. The lot is generally rectangular in shape and mostly flat at street level to a depth of about 150 feet then dropping sharply about 15 feet with the rear of the lot being on grade with South Grove Street. The bid from Dr. Albert Bernard Anderson includes the proposal to construct a single story medical office building containing 4,300 square feet on grade with Asheland Avenue. The development proposal includes paved parking and landscaping. The buildng will be occupied by Dr. Anderson's opthamological practice.

The bid of Dr. Anderson, in the amount of $117,400 is not less than the established minimum price of $17,400.

This resolution will initiate the sale of the property through the upset bid process.

RESOLUTION NO. 23 - PAGE 258

G. RESOLUTION NO. 96-134 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE DISPOSAL PARCEL 3B OF THE EAST RIVERSIDE REDEVELOPMENT PROJECT

Summary: Disposal Parcel 3B is a fragment lot located on the west side of South Grove Street comprising 4,665 square feet. The lot is

irregular in shape and mostly flat about three feet above street level. The bid from Gertrude D. Jones includes the proposal to combine the property with property currently owned by Ms. Jones at 99 South Grove Street. No construction is planned.

The bid from Ms. Jones, in the amount of $2,200 is not less than the established minimum price of $1,800.

This resolution will initiate the sale of the property through the upset bid process.

RESOLUTION NO. 23 - PAGE 259

H. RESOLUTION ESTABLISHING JUST COMPENSATION FOR CERTAIN REAL PROPERTY AT 50 MORROW STREET IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

This item was pulled from the Consent Agenda to be discussed individually.

I. RESOLUTION NO. 96-135 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY 17.282 ACRES OF VACANT LAND OFF ASCENSION DRIVE TO CORNERSTONE REALTY GROUP INC.

Summary: The City has received an offer from Cornerstone Realty Group Incorporated in the amount of $200,000 for the purchase of 17.282 acres of vacant land off Ascension Drive. On June 28, 1996, the ad ran for upset bids and none were received.

The City is the owner of record of a 17.282 acre tract of vacant land off Ascension Drive adjacent to the Meadows Apartments. The property has remained vacant since the City acquired it in 1981. As the current owner of Meadows Apartments, Cornerstone Realty Group Inc. is an REIT corporation and intends to construct market rate apartments on the property.

RESOLUTION NO. 23 - PAGE 260

J. RESOLUTION NO. 96-136 - RESOLUTION AUTHORIZING THE PARKS AND RECREATION DEPARTMENT TO SOLICIT CONSULTING SERVICES TO DESIGN RENOVATION PLANS FOR PRITCHARD PARK

Summary: This will authorize the Parks and Recreation Department to solicit proposals from architects and/or engineers for the redesign of Pritchard Park, with the request for proposal and contract negotiation process complying with the City's policy for procurement of architectural and engineering services adopted in Resolution No. 88-75.

RESOLUTION NO. 23 - PAGE 261

K. RESOLUTION NO. 96-137 - RESOLUTION AUTHORIZING THE SALE OF 2.9 ACRES NEAR BARTLETT STREET (MURRAY HILL PARK PROPERTY) TO OVERLOOK APARTMENTS LIMITED PARTNERSHIP

Summary: On February 13, 1996, the City Council directed the City Clerk to advertise for upset bids on 2.9 acres of land near Bartlett Street (Murray Hill Park Property). The ad ran on July 5, 1996, in the Asheville Citizen-Times. No response was received. Therefore, the offer to purchase from Overlook Apartments Limited Partnership should be approved in the amount of $136,000 was not upset and the sale to Overlook Apartments Limited Partnership should be approved.

The sale to Overlook Apartments will be subsequent to execution of a contract for sale which incorporates the terms of the option approved by City Council on February 13, 1996. In particular the City of Asheville Parks & Recreation Department will have final approval authority for the park design before the conveyance of the property to Overlook Apartments.

RESOLUTION NO. 23 - PAGE 262

L. MOTION ASKING THE PLANNING AND ZONING COMMISSION TO REVIEW THE REZONING PETITION FROM WILSHIRE PARK RESIDENTS TO REZONE 112 LOTS FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

Summary: This petition requests that 112 lots in the Wilshire Park area off Patton Avenue be rezoned from R-3 Medium Density Residential to R-1A Single Family, Moderate Density Residential.

The subject property is approximately 54.32 acres. The 112 lots are located within the area called Wilshire Park which is directly west of Patton Avenue. The 2010 Plan recommends this area to be low density residential.

Of the 112 lots, 109 have single family residential structures, one lot is owned by the church and two lots are currently vacant. All of the 112 lots conform to the R-1A standard which is minimum lot size of 5400 square feet and minimum lot width of 50 feet. The petition contains 96 verified property owner signatures or 85% of the property owners and the 96 lots constitute 71% of the land area.

The Planning staff reviewed the petition and recommends that the 112 lots in the Wilshire Park area be sent to the Planning & Zoning Commission for review.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolutions and they will not be read.

Councilman Worley moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Sellers and carried unanimously.

ITEMS PULLED FROM CONSENT AGENDA

A. RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE TRACT 3 IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

Mr. Ed Vess, Coordinator of Field Services, said that Tract 3 is a residential lot on Short Street comprising 5,532 square feet. The bid from J. C. and Shirley Dozier for Tract 3 includes no plans to build on the lot but Tract 3 is to be assembled with property currently owned by the Doziers.

The bid of Mr. and Mrs. Dozier, in the amount of $3,300.01, is not less than the established minimum price of $3,300.

This resolution will initiate the sale of the property through the upset bid process.

Vice-Mayor Field said that at the last meeting when Mrs. Dozier was here with her attorneys, Mrs. Dozier left giving the impression that they were suing the City. She asked if the Doziers had sued the City.

Assistant City Attorney Patsy Meldrum said that no lawsuit has been served on the City as of 5:00 p.m. today.

Vice-Mayor Field was concerned about the impact of this parcel in relationship to the planning process and Head of Montford Redevelopment Plan. Ms. Julia Cogburn, Planning Director, said that the changes that were discussed by the Committee that was appointed last year have never been formally brought back to Council. She didn't believe that this proposal would be contrary to anything that is in the current Plan as it is currently adopted or the recommendations the Advisory Committee.

Upon inquiry of Councilman Worley, Ms. Cogburn said there was a committee appointed to take a look at amendments to the Montford Redevelopment Plan and to suggest amendments to that Plan. There was a lot of controversy surrounding some of the things that were discussed. There was a final proposal but it has never been finally drafted and brought forward to Council. She was not certain, at this time, when that could be brought into final form and presented to Council.

Mayor Martin said that these two parcels have not been on the tax rolls and the intent is to get small parcels on the tax rolls.

Vice-Mayor Field expressed concern that people might buy parcels to adjoin their existing land in order to make it more appropriate for commercial of some kind - and we might not be recommending commercial in that particular area. Therefore, since we don't know what the final Plan is being recommended, she suggested postponing this matter for a week or two in order to give Council a chance to look at what is being proposed.

Ms. Cogburn said that this property is not zoned commercially now and didn't think it would be zoned commercially in the Plan.

Vice-Mayor Field felt that we have spent money along with a lot of staff and community time to come up with a Plan and we might be doing something that would be contrary to the Plan. She was opposed to doing bits and pieces without actually looking at the Plan.

Ms. Mary Jo Brezny, resident of Montford, agreed with Vice-Mayor Field.

Mr. Richard Nantelle, representing the Coalition of Asheville Neighborhoods, asked if this tract of land lies in what the UDO might consider a transition zone. Ms. Cogburn said that the whole block has been talked about from time to time by different groups as a potential transition area and that would have to be looked at in the UDO mapping.

By use of a map, Mr. Vess showed Mr. Nantelle how the property is situated with relationship to the Housing Authority property.

Vice-Mayor Field requested that we try to get some of the planning processes finished that we have started, if possible.

Ms. Myra Fuller, resident on Cumberland Avenue, said that the Montford neighborhood worked real hard to draw up this Plan and tried to work with the Housing Authority for years to get it administered. It seems to be too hard a task to address to market the property that has been amassed with the federal monies that came down to implement this Redevelopment Plan. She said it states in the Plan that there will be a Montford Neighborhood Advisory Board whose purpose is to serve as liaison between the Housing Authority (or the administrator - which is now the City) and the neighborhood throughout the administration of this

project. She noted that the project is not over with and feels that since there is a Plan that has goals set, that Plan needs to be looked at first before any action is taken. She said the Advisory Board will be reconvening soon and they look forward to working with the Planning Department as administers to the Plan.

When Councilman Hay asked why this was not brought before the Advisory Board, Mr. Vess said that the Advisory Board has not been active in Montford for over a year.

Councilman Hay said that most concerns expressed to him is that the community did not know about this proposed sale. He would like to see the Advisory Board consulted before Council makes a decision on this issue.

Vice-Mayor Field moved to table this issue until August 13, 1996, to gather more information. This motion was seconded by Councilman Sellers and carried unanimously.

B. RESOLUTION NO. 96-138 - RESOLUTION ESTABLISHING JUST COMPENSATION FOR CERTAIN REAL PROPERTY AT 50 MORROW STREET IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

In response to questions raised by Vice-Mayor Field, Mr. Ed Vess, Coordinator of Field Services, said that 50 Morrow Street is located at the northwest corner of the Morrow Street block. It is generally rectangular in shape containing 3,776 square feet. A one story, frame single family residence is located on the property. Its highest and best use per the appraisal is residential as permitted by the zoning. It is to be acquired as part of a small subdivision encompassing the Morrow Street block that will provide sites for affordable housing. We are simply establishing a price to purchase that property from the owner. The owner actually approached us and asked us to buy the property. This was reviewed with the Committee in Montford over a year ago concerning the Morrow Street Subdivision. This particular parcel at that time was not planned to be acquired, but since that time the owner has asked us to buy the property and it makes sense in light of the fact that we need the property to do a cul-de-sac at that point. He believed this is in accordance with the Redevelopment Plan.

50 Morrow Street was appraised by David Moore, MAI, and the appraisal was reviewed by Francis Naeger, MAI, who concurred and recommended the appraised value of $18,500 as fair market value.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-138. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION NO. 23 - PAGE 263

VI. OTHER BUSINESS:

City Council Mini-Retreat

It was the consensus of Council to hold their mini-retreat on Friday, September 6, 1996.

Broadway

Councilman Hay said that the Council Committee, which was appointed to look at the whole question of greenways, is particularly interested in what is going on in the Broadway area. The Committee met last week and asked staff to come back with a status report on the zoning situation on Broadway and how that would relate to future plans.

Ms. Julia Cogburn, Planning Director, said that the big issue is land use along the Broadway corridor in general and what the City wants to see happen in terms of land use development along that corridor. The 2010 Plan talks about proposed land use along that corridor with the greenway going to the west side of Broadway and with office institutional mixed with residential proposed along the east side. What might be of a concern of Council is the two pockets of commercial highway along Broadway. She asked if Council wanted to address the zoning of those two pockets at the current time or wait to look at them in conjunction with the rest of the UDO mapping. She said that the Planning Department does have a tentative site plan proposal for a piece of property on the east side for an office forms supply business.

Councilman Hay suggested Council initiate a rezoning study. Ms. Cogburn responded by saying that the commercial highway pockets are contrary to what is in the 2010 Plan for that area. In fact, if Council wants to make sure that the 2010 Plan is followed, or at least that something doesn't happen in the interim that is inconsistent with the 2010 Plan, then she recommended that Council go ahead and look at rezoning those two areas, even on an interim basis. She suggested Council consider rezoning these two pockets to R-3 in the interim because that is consistent with what the surrounding properties are zoned. Staff has even talked about that this might be an appropriate corridor to look at for a transition district in conjunction with the UDO because it really is different in nature.

Upon inquiry of Councilman Worley, Ms. Cogburn said that she is not proposing a rezoning study right now. However, she did suggest that if Council is interested in changing this from commercial highway, staff would suggest it be rezoned to R-3 in the interim and that it be looked at in the UDO mapping as to the appropriate use.

Councilman Hay moved to direct staff to carry forward a proposal to the next Planning & Zoning Commission meeting to rezone the two properties discussed above from Commercial Highway to R-3 in the interim until the UDO mapping is completed. This motion was seconded by Vice-Mayor Field and carried unanimously.

Ms. Cogburn said that staff would want to be in discussions with the folks that have submitted the preliminary site plan and make them aware of this potential.

Ms. Leni Sitnick, Mr. Mike Lewis and Ms. Betty Lawrence all spoke in support with the interim rezoning to R-3.

Vice-Mayor Field thought it would be great to have a greenway on both sides of Broadway, but it would be very expensive. Mr. Lewis responded that this was a good opportunity for the City and the neighborhoods to work together.

Ms. Sitnick asked Council to consider looking in-house or in the community for people who are knowledgeable about greenways and green spaces.

Mr. Dick Rice suggested a good resource person might be the Director of the Conservation Trust for North Carolina.

UDO

It was the consensus of Council to reconvene the City Council UDO Committee for one final meeting.

Councilman Worley noted that the policy issues presented last week are nothing more than instructions to the staff in how to draft the language in the UDO. The public will have an opportunity to express their opinions not only at the Planning & Zoning Commission public hearing, but also the City Council public hearing on this ordinance.

Ralph Bishop

Mr. Ralph Bishop stated, among other things, that the citizens of Asheville have the right to be heard before the City Council.

Leni Sitnick

Ms. Leni Sitnick suggested (1) contacting students from NC State from a design program to be a resource regarding greenways; (2) giving real broad thought to the future of the Civic Center; (3) the Task Force discuss with Buncombe County to see how they play in the use of the Civic Center since they don't pay for it; (3) including additional language on the agendas to help the public identify the properties in question; (4) considering some parcels that may not be buildable to be used for community gardening or given to neighborhoods for neighborhood parks; (5) considering some parcels be given to non-profits to build on in order to get them on the tax rolls.

Residence Inn

Vice-Mayor Field said that someone placed a letter on her desk commenting on the vote that was taken, or not taken, regarding setting a public hearing on the Residence Inn group development. She said that the letter shows how many voters will vote against them because of the way they proceeded. She wanted the community to know that she is not a poll-taker. She does not make her decisions based on how many people are going to vote, or not vote, for her. She feels like her position and her job is to make policy and do the very best she can for the whole City. She was sorry that people, anonymously, felt like they needed to resort to a typewritten letter and she resented it. Basically, she felt that every Council member felt the same way.

Councilman Worley concurred with Vice-Mayor Field's comments and invited whoever placed the envelopes on the desk to approach Council and talk to them about their decision. He, too, resented the fact that someone felt they had to address them anonymously.

Mayor Martin said that decisions are based on the facts as the Council sees them, on both sides. He said that Council does have a tough job and they need to be as fair as they can to all concerned.

Claims

The following claims were received by the City of Asheville during the week of July 5-11, 1996: W.D. Holden (Parks & Recreation), Phillip Lowe (Police), Rhonda Keith (Water), Richard Hagen (Parks & Recreation), Nathan Sargent (Streets), Carrie Morgan (Finance) and Whitman Toland (Water).

The following claims were received during the week of July 12-18, 1996: Donna Wood (Water) and Nichole Shipley (Water).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:13 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

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Tuesday, July 30, 1996 - 7:00 p.m.
Shiloh Community Center

Community Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Ms. Trina Mills gave the invocation.

A video was shown to Council depicting the condition of streets and sidewalks in the Shiloh area, in particular from London Road to Caribou Road.

The following topics were raised by residents and addressed by City Council and City staff: sidewalks needed; maintenance of the streets and sidewalks, especially with grass growing in the curbs and in between cracks in the sidewalks; overgrown weeds and shrubs; length of time it took the Fire Department to respond to a fire in the area; dilapidated houses; streets that need to be paved; partial sidewalks; why the Shiloh area did not qualify for Community Development Block Grant funds; inadequate and out-of-date playground; need for street improvements on Caribou Road; water line leaks; signs being obscured by overgrown weeds; trash in the area; need for police presence all day at various times in the Shiloh area to reduce crime and traffic violations; why the noise ordinance is hard to enforce with regard to boom boxes; speeding on Brooklyn Road and White Avenue; need for sign on White Avenue to slow down traffic due to children in the area; need to post speed limit signs in Shiloh area; opposition to the development of multi-housing project by the Housing Authority on Dodge Street; need for traffic light at Erwin & Hendersonville Highway; speed limits need to be reduced to 20 miles per hour on Shiloh Road; Caribou Road needs to be improved, especially widened; length of time it takes to get water leaks fixed; the process used for getting sidewalks installed; the need for traffic calming techniques Overlook Road and in other neighborhoods; street drain between 68 & 70 Robinson Avenue needs to be fixed because it catches rain and washes out the yards in the immediate area; and the need for a slow method of transportation by the police in the Shiloh area.

Mr. David Jones, Executive Director of the Housing Authority, responded to concerns raised in opposition to the Housing Authority's building of a 4 unit development on Dodge Street. Mayor Martin noted that the Housing Authority has complied with all applicable laws and has the right to build the 4 unit complex on that site.

Mr. Robert Griffin presented City Council with a letter dated July 30, 1996, from Bruce F. Thompkins which reads: As President and spokesman for the Biltmore Village Merchants Association, we are opposed to the development of the multi-family housing project by the Housing Authority on Dodge Street. Biltmore and the environs suffer extreme traffic congestion at the present time. Any development with the density of sixteen (16) people per acre would make this congestion unbearable. The merchants presently feel any additional traffic would have an adverse impact on business in the Village."

A petition was also presented to Council (45 signatures), which reads "We, the following, oppose the construction of low-income housing units on Dodge Street due to the effect it would have on property values and the traffic congestion it would add to our community."

Mayor Martin adjourned the meeting at 8:55 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - August 6, 1996 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

AIRPORT PROPERTY

City Attorney Slawter said that the City has recently received a proposal from Omega Food Services, Inc., operators of Burger King restaurants, regarding leasing a portion of property owned by the City along Airport Road.

The City owns property along Airport Road on the opposite side of the road from the Airport. In recent years, several proposals have been made by private developers to either purchase or lease on a long-term basis portions of that property. The two parcels which are of primary interest to potential developers are a 0.72 acre tract located between the J&S Cafeteria and Airport Road and a 0.98 acre tract located between the Fairfield Inn and Airport Road. The 0.72 acre tract is located north of the private drive leading into Fairfield Inn and J&S. The 0.98 acre tract is located south of that private road. Neither of the parcels adjoins the private drive leading into Fairfield Inn and J&S. The developers of Fairfield Inn and J&S own property on either side of the private drive and permission would be required from them in order for the City or a developer to use that private drive for access to Airport Road. In the alternative, direct access to Airport Road might be allowed by N.C. Dept. of Transportation.

The 0.72 acre tract is totally owned by the City, however, the 0.98 acre tract was acquired as part of an airport grant and it does require FAA concurrence with part of the proceeds going to the Airport.

In 1994, the City obtained an appraisal of the two parcels. The appraisal indicates a total value of $254,000 for the 0.72 acre parcel ($24,600.00 annually for rental) and a value of $346,000 for the 0.98 acre parcel ($33,600.00 annually for rental). The appraisal is more than two years old and the property would therefore likely appraise for more today.

The proposal is for a long-term rental (20 years with 3 five year options) with an initial rental of $30,000.00 per year for the 0.72 acre site or $36,000.00 per year for the 0.98 acre site. There is also a 10% annual increase adjusted at the end of each five year period.

Since the last appraisal was done in March of 1994, the City Attorney's Office recommends that the appraisal be updated. After an updated appraisal is received and the offer is still in line with the appraisal, the City could then proceed with the upset bid process.

Councilman Hay, liaison to the Airport Authority, said that he would like to get the Airport Authority's input into this issue also.

Vice-Mayor Field moved to authorize the City Attorney to obtain an update of the appraisal. This motion was seconded by Councilman Skalski and carried unanimously.

Mayor Martin asked Councilman Hay to review this matter with the Airport Authority and bring back their recommendation to the Council.

UDO UPDATE

Councilman Worley said that on July 16, 1996, the Council UDO Committee presented their policy issues and the recommendations of the UDO Advisory Committee for review by the full Council. He stated that the votes reflected today will only be giving staff direction to complete wording for the Unified Development Ordinance ("UDO"). That draft ordinance will then go the Planning & Zoning Commission for their review and public hearing and then back to the City Council for their review and public hearing. He stressed again that the actions taken today are not final, they are only directions to staff.

The following is a summary of the directions given to staff:

1. WHO SHOULD HAVE AUTHORITY TO INITIATE REZONING REQUESTS?

City Council voted (6-1, with Councilman Skalski voting "no") to allow property owners, Planning & Zoning Commission, Planning staff, City Council, and 51% of the property owners in an area who own at least 51% of the property in the area (by petition) to initiate a rezoning request.

Councilman Skalski felt that business owners should also have authority to initiate rezoning requests.

2. SHOULD MEETINGS BETWEEN THE DEVELOPER AND NEIGHBORHOOD RESIDENTS BE REQUIRED OR RECOMMENDED EARLY IN THE REVIEW PROCESS?

City Council voted (7-0) to strongly recommend meetings between the developer and neighborhood residents early in the review process.

Ms. Leni Sitnick spoke about the benefits of early meetings with the developer and neighborhoods and urged Council to find something stronger than to just "strongly" recommend meetings.

3. WHO SHOULD BE NOTIFIED OF PROPOSED PROJECTS?

City Council voted (6-1, with Councilman Skalski voting "no") to require notification of owners of property located within 400 feet of proposed Level II and Level III projects, to post the property, and to notify the contact person(s) for the neighborhood(s) in which the project is proposed.

Councilman Skalski felt that there was not enough communication in the notification process.

Ms. Ann Campbell felt that the 400 feet notification area is not sufficient and that 14 days is not enough time to get a neighborhood meeting organized for input into a proposed project.

4. SHOULD THE DEFINITION OF USABLE OPEN SPACE EXCLUDE LAND WITH A SLOPE IN EXCESS OF 33% OR A SLOPE IN EXCESS OF 50%?

City Council voted (7-0) that areas with slopes in excess of 33% account for no more than 50% of the required open space.

Staff was directed to research other ways to encourage the protection of steep slopes.

5. SHOULD BED AND BREAKFAST ESTABLISHMENTS BE PERMITTED IN ALL RESIDENTIAL DISTRICTS?

City Council voted (6-1, with Councilman Skalski voting "no") to prohibit Bed & Breakfast's in all single family districts and to permit them in all multi-family districts, with restrictions governing spacing, size, parking, activities, etc.

Staff was also directed to develop language on the smaller and larger Bed & Breakfasts and where they will be allowed.

Even though Councilman Cloninger was in agreement with this language, he did suggest prohibiting Bed & Breakfasts in all single family districts and permitting them in only the RM8 and RM16 multi-family districts, with restrictions governing spacing, size, parking, and activities.

Councilman Skalski said that he was in favor of permitting Bed & Breakfast's in all residential districts, with reasonable standards for their development.

6. SHOULD ACCESSORY APARTMENTS BE PERMITTED IN ALL RESIDENTIAL DISTRICTS?

The City Council voted (7-0) that accessory apartments be permitted with restrictions in all residential districts. The recommended restriction on size is 500 sq. ft. or 25% of the floor area of the principal structure, whichever is greater.

7. SHOULD SPECULATIVE GRADING BE PERMITTED?

The City Council voted (7-0) to instruct staff to define speculative grading. The draft language should allow speculative grading, with pre-development requirements for erosion control, buffer planting around the perimeter of the site and street trees along the street frontage. Language is also to include City Council authority to prohibit some speculative grading.

Vice-Mayor Field strongly supported a person's right to do what they want on their own property. She also supported strong requirements on pre-development grading.

Mayor Martin and Councilman Worley felt that speculative grading should be allowed, with certain restrictions.

Councilmen Cloninger and Hay felt a specific definition of speculative grading was necessary.

Councilman Skalski felt that if you speculatively grade the land you could be destroying the property values of others in the area.

Ms. Jane Mathews, Planning & Zoning Member and architect, said that the topography of the mountains should be considered when grading. She suggested a special exception for cut and fill situations.

Mr. H.K. Edgerton said that if Council prohibits speculative grading, it will have a potential impact on a project going on at the river.

Mr. Don Noakley, representing the Asheville Board of REALTORS, said that under the UDO, as currently drafted, grading or filling property is subject to the restrictions imposed by grading permits, soil

erosion and sedimentation control, buffering, tree and landscape requirements, floodplain restrictions, and stormwater runoff provisions. He felt these controls are adequate to protect the environment and satisfy the esthetic desires of most people. He said that in the hilly and mountainous terrain of our area, planned projects usually require either cutting into a hill or filling a low area or both. If the project requires cutting and digging out dirt, the removed materials needs to be put somewhere - the filling of the other property would be speculative grading. The Asheville Board of REALTORS recommends that speculative grading continue to be allowed.

Mr. Richard Nantelle, President of the Coalition of Asheville Neighborhood, felt that penalties should be imposed on those who misuse speculative grading.

Mr. George Morasani agreed that irresponsible speculative grading is bad for the City. He suggested Council allow speculative grading to continue and if a problem occurs, then the issue can be revisited. He urged Council not to penalize the responsible developers and graders.

Mr. Carl Ricker, developer, asked for Council to support allowing people to use their property as they wish. He urged Council to let them prepare their properties so they can market them.

Councilman Cloninger felt that there are circumstances where speculative grading should be allowed, however, Council needs to reserve the right under some circumstances not to allow it.

Ms. Leni Sitnick felt that speculative grading needs to be very specifically designed. She felt that all requirements should be balanced between the homeowners and developers. She suggested the use of computers to visualize the property.

Mr. Philip Garland, grading contractor, felt there were already many requirements for graders now. He also felt there were not enough employees to enforce erosion control.

Mr. Winston Pulliam, local developer and Vice-Chairman of the Buncombe County Economic Development Commission, said that most people looking to build industry want lots that are ready to be built on. He felt this is a property rights issue.

8. SHOULD GRADING BE PERMITTED IN THE REQUIRED BUFFER AREA?

The City Council voted (6-1, with Vice-Mayor Field voting "no") to allow grading in the buffer, with the requirement that the a strip with a minimum width of 15 ft. be left undisturbed along the side and rear property lines for sites over one (1) acre or trees and shrubs 50% larger than normally required be planted in the buffer.

Vice-Mayor Field supported grading in the buffer for specific reasons, but asked for language on how to protect tree roots that may be damaged during grading, especially if the tree is located on someone else's property.

Ms. Leni Sitnick suggested City Council call upon the Tree/Greenway Commission for assistance in this area. There are ways to protect trees during construction. She said there was information available on how not to harm tree roots while grading.

9. SHOULD THE GROUP DEVELOPMENT REVIEW PROCESS, WHICH REQUIRES REVIEW OF MAJOR PROJECTS BY P&Z AND CITY COUNCIL, BE RETAINED?

The City Council voted (6-1, with Councilman Skalski voting "no") to eliminate the group development review procedure and to authorize staff to approve major projects (public notification is required for these projects). Significant projects would be subject to public hearings before the Planning & Zoning Commission and City Council.

The following are the three levels of project review:

Level I
Review and approval by staff with no public notification;
Similar to existing small project review procedure;
Following projects would be in this category:
Residential: 3-7 units
Office/Institutional: 0-25,000 square feet gross floor area
Commercial: 0-35,000 square feet gross floor area
Industrial: 0-100,000 square feet gross floor area

Level II
Review and approval by Technical Review Committee ("TRC")
Surrounding property owners would be notified
Public comments accepted at TRC meeting
Appeals to the Planning & Zoning Commission
Following projects would be in this category:
Residential: 8-150 units
Office/Institutional: 25,000-200,000 square feet gross floor area
Commercial: 25,000-200,000 square feet gross floor area
Industrial: over 100,000 square feet gross floor area but less than 30 acres or more than 500 employees

Level III
Review and recommendation by TRC
Approval by City Council
Notification of surrounding property owners
City Council conducts public hearing as part of approval

Following projects would be in this category:
Residential: more than 150 units
Office/Institutional: more than 200,000 square feet gross floor area
Commercial: more than 200,000 square feet gross floor area
Industrial: more than 30 acres or more than 500 employees

Councilman Worley stressed that Council is keeping the public input in the process, but changing the way they are involved in that process. This is only a shifting of the area where the public is involved and he felt it was a more favorable shifting.

Councilman Skalski felt that this did not allow any flexibility on an on-going basis and that it doesn't allow all the multiple inputs that are necessary to determine whether a certain piece of property is right for that development.

At the request of Vice-Mayor Field, Mr. Gerald Green, Senior Planner, explained the relationship of the 2010 Land Use Plan and the UDO. He explained that the 2010 Plan is the planning document and the UDO is the tool and regulation which will be used to serve the 2010 Plan.

Planning Director Julia Cogburn noted that everything in the UDO will have to be done in accordance with the City's 2010 Plan.

Mr. Leni Sitnick read a passage from Section 30-1-2 of the Code of Ordinances where language is clear that the land use plan is comprehensive.

Staff was instructed to draft language that gives the City Council the ability to turn down a project. If they have no authority to deny a project, then it is useless for them to review it.

10. SHOULD DEVELOPERS BE REQUIRED TO CONSTRUCT SIDEWALKS ALONG PUBLIC STREETS AND TO DEDICATE OPEN SPACE?

The City Council voted (7-0) to recommend that developers be required to construct sidewalks (with flexible standards) for all non-residential developments, multi-family residential developments with more than 10 units, and single family development with more than 20 - 40 homes or lots. Open space would be required for all multi-family residential development, single family development with more than 20 lots/homes, and all other uses exceeding 50,000 square feet of gross floor area.

Ms. Leni Sitnick encouraged the use of pervious materials in not only walking and bike trails, but to diminish stormwater runoff.

11. SHOULD AN ADDITIONAL COMMERCIAL DISTRICT BE PROVIDED WHICH WOULD PERMIT MODERATE SIZE COMMERCIAL DEVELOPMENT?

The City Council voted (7-0) for the creation of a Community Business II district with a maximum building size of 45,000 square feet.

12. SHOULD DUPLEXES AND QUADRAPLEXES BE PERMITTED IN ALL SINGLE FAMILY RESIDENTIAL DISTRICTS AS RESTRICTED USES? (RESTRICTIONS WOULD ADDRESS DESIGN AND SPACING)

The City Council voted (7-0) that duplexes be permitted as a restricted use in all single family zoning districts and, additionally, that triplexes and quadraplexes be permitted as restricted uses in the high density single family district.

Ms. Beth Maczka, Director of the Affordable Housing Coalition, voiced concern about the restrictions, in particular the spacing requirements for quadraplexes.

A resident of Kenilworth stated that Kenilworth has a wide range of housing options and is an excellent example of an area that mixes different housing in with existing structures.

It was the consensus of Council to look at making the spacing requirement for quadraplexes less restrictive.

Mr. Jim Barrett, Executive Director of Pisgah Legal Services, noted that in order to adhere to Asheville's Fair Housing Plan, Council should be aware that some restrictions may affect affordable housing. He said that if you are going to develop affordable housing, you need to have more units in a building.

Mr. Richard Nantell felt that some restrictions are necessary for development of neighborhoods. He said that some latitude should be considered in redevelopment areas where there are a number of lots that can be considered for this type of housing.

Mr. David Jones, Executive Director of the Housing Authority, wanted to make sure that the City meets fair housing needs. He noted with the lack of land we need to be prudent on how we develop it.

Staff was instructed to revisit the restrictions on spacing and lot sizes.

At 5:50 p.m., Mayor Martin announced a 10 minute recess.

The following is a summary of the directions given to staff with regard to the Advisory Committee recommendations:

1. TREATMENT OF TRANSITION AREAS

City Council voted (7-0) that a model Transition Overlay District be included in the UDO, with a procedure for revising the standards to meet the specific needs of each transition area.

2. OFFICE AND INSTITUTIONAL DISTRICTS

A. City Council voted (7-0) to reduce the width of the transition area in the Institutional District to 100 feet.

B. City Council voted (7-0) to increase the maximum building height in Office District to permit a maximum height of four (4) stories, but not to exceed 60 feet.

C. City Council voted (7-0) to permit a broader range of uses in the Office and Institutional Districts to permit flexibility in development, but limited enough to maintain the intent of the districts.

3. RIVER DISTRICT - USE OF YARDS

City Council voted (7-0) that parking be prohibited in the front yard, as it is in other districts with a minimal front yard requirement.

Staff was instructed to look at a flexible River Resource Yard (perhaps a minimum of 15-20 feet) based on lot depth.

4. LANDSCAPING AND BUFFERING STANDARDS

A. City Council voted (6-1, with Councilman Skalski voting "no") to have requests for alternate compliance heard by the Technical Review Committee ("TRC"), with the addition of one Tree/Greenway Commission member added to the TRC.

B. City Council voted (7-0) to buffer yard widths of 15', 20', 25', & 30'.

C. City Council voted (7-0) to not require buffers between single family residential uses; and

D. City Council voted (7-0) to permit posting of a bond or other form of surety to guarantee installation of landscaping.

It was the consensus of Council to instruct staff to review landscaping requirements of other cities in order to make Asheville's standards brought up to date.

5. SIMPLIFICATION OF THE REVIEW PROCESS

The City Council voted (7-0) to instruct (1) staff to review the text describing the Downtown Design Review minor work review process for opportunities to simplify the text without impacting the description;

(2) staff revise the UDO to emphasize the simultaneous review of permit and development applications; and (2) staff to investigate the feasibility of combining zoning and building permits.

6. MAJOR DEVELOPMENT REVIEW

The City Council voted (7-0) that significant projects (residential over 150 units; office, institutional, and commercial over 200,000 sq. ft.; and industrial more than 500 employees or more than 30 acres) be reviewed by City Council.

Staff was instructed to (1) draft language in which the Council can deny approval of projects, and (2) look at the thresholds to make sure they are reasonable.

7. PROVISION FOR PRIVATE STREETS

The City Council voted (6-1, with Councilman Worley voting "no") that all residential lots be required to abut a public street, with a range of street design standards developed related to number of lots served.

Councilman Worley felt that this was too strict of a requirement to require residential lots abut a public street.

Staff was instructed to draft language to allow a variance or modification request on a case by case basis.

8. SIDEWALK AND OPEN SPACE REQUIREMENTS

This issue was addressed as a policy issue.

9. TIMELY RESPONSE TO PERMIT APPLICATIONS

The City Council voted (7-0) that deadlines be reinforced for review and response for all development permit applications and for making decisions on the applications by providing for the refunding of permit fees if a complete permit application is not acted upon within the time limit set by the UDO.

10. MAPPING OF GENERAL USE DISTRICTS

The City Council voted (7-0) to endorse the mapping (rezoning) procedure, which is currently being used by the staff. It was recommended that the mapping of the new districts be referred to as rezoning in an effort to generate interest in this element of the UDO.

Upon inquiry of Vice-Mayor Field about giving staff guidelines on the mapping procedures, Councilman Worley said that the Council UDO Committee is going to reconvene to look at that issue and suggested waiting until the Committee brought back their recommendations before voting on this particular issue.

11. AMENDMENTS TO ADMINISTRATIVE REQUIREMENTS

The City Council voted (7-0) to not include three amendments to the administrative requirements addressing interpretation of the ordinance; ability of staff and board/commission members to inspect project sites; and the right of "aggrieved property owners" to recover substantial fees from the city.

12. DEFINITION OF BUILDING HEIGHT

The City Council voted (7-0) to encourage working with the topography and that it did not penalize a builder or developer for including a basement and it also encourage pitched roofs as opposed to flat roofs, since the roof was not calculated in determining building height.

DODGE STREET AREA REZONING REQUEST

Ms. Erin McLoughlin, Urban Planner, said that the Planning staff has received a request to rezone 23 parcels in the Dodge Street area from CS Commercial Service, HI Heavy Industrial , and R-3 Medium Density Residential to R-1A Single Family, Moderate Density Residential.

Planning staff has received a petition requesting a zoning study of 23 parcels (approx. 6.72 acres), that the petitioners wish to change to R-1A. Of the 23 parcels 1 is zoned CS (commercial service), 5 are zoned HI (heavy industrial), and the remaining 17 are zoned R3 (residential - medium density). The lots being considered for the rezoning are contiguous and border both the east and west side of Dodge Street, a neighborhood just south of the Biltmore Village Local Historic District. The requested R-1A zoning is a single family moderate density district. The current land use appears to be predominately single family houses on small to mid size lots.

The petition meets all requirements to be considered valid.

Ms. Teri Calloway, President of the Reed Neighborhood Association, urged Council to rezone this area to maintain the current family per acre density in their neighborhood ensuring stability and safety. She noted that the area already has a mix of housing and they do not want the quadraplex proposed to be built by the Housing Authority in that area due to the following reasons: (1) the streets are already so narrow they cannot take anymore traffic; (2) there are no sidewalks and the pedestrians have to walk in the road; (3) the street has to be cleared on Thursdays at City directive so the Sanitation Division can get through for trash pickup; (4) Dodge Street is paved to a width of 1 feet and the visibility of two blind corners do no comply with Section 30-3-10 of the Code of Ordinances; (5) the proposed Housing Authority site is too small to provide adequate off-street parking for so many residents; (6) property values need to be preserved; (7) five homeowners in the area are falsely zoned as HI Heavy Industrial; and (8) there are no traffic lights at key intersections in the area.

Planning Director Julia Cogburn responded to a question from Vice-Mayor Field concerning spot zoning.

Upon inquiry of Councilman Sellers, Ms. Cogburn stated that an application has been received by the Housing Authority for their development in the area, but no permits have been issued.

Mr. David Jones, Executive Director of the Housing Authority, said that the Housing Authority owns the site, they comply with applicable laws, they have money for the construction, the structure will be well designed and it will blend into the neighborhood. The unit will provide affordable housing for four families and there will be off-street parking for eight vehicles. He didn't feel that the unit will disrupt the tranquillity and traffic in the neighborhood.

Upon request from a resident in the area, Mr. Jones explained the issue about a property swap with Dr. Chambers. Mr. Jones said that

there was nothing magic about the Yorkshire site and as a result of this "swap" he was able to further his objective in that he could spread more units out.

A resident in the area said that because of the traffic problems on Dodge Street, the neighborhood is willing to accept a single family home or a duplex, but the street cannot handle the additional traffic that will be generated by a quadraplex.

Upon inquiry of Councilman Sellers, Ms. Cogburn said that if Council decided to instruct staff to proceed with a rezoning study in this area, it would be presented to the Planning & Zoning Commission at their September or October meeting and then it would have to come back to the City Council for a public hearing.

Councilman Worley said that if the Housing Authority project meets all the City's standards, the project would be approved. Even if Council rezoned this area, the Housing Authority project could not be stopped.

Ms. Leni Sitnick read an excerpt out of Section 30-1-2 which she felt gave Council authority to deny a project.

A resident in the area invited Council to drive on Dodge Street to see just how narrow the street is.

Ms. Beth Maczka, Director of the Affordable Housing Coalition, voiced concern about how neighborhoods are requesting rezoning studies to keep affordable housing out of their community. Every neighborhood should be allowed to have in-fill housing and the proposed 4 units should be low impact for the neighborhood.

Ms. Jane Mathews, member of the Planning & Zoning Commission, suggested the Housing Authority meet with the neighborhoods when proposed units are being considered. Mr. Jones responded that he has met with the neighborhoods many times but the outcomes are always the same - they don't want units built in their neighborhoods. He did say that he would be glad to sit down with the Coalition of Asheville Neighborhoods and discuss their future plans.

Mr. Jones responded to questions from Councilman Sellers regarding how many units the Housing Authority currently has, how many units are rented and if there is a waiting list.

Mr. Jim Barrett, Director of Pisgah Legal Services, cited different sections out of Asheville's Fair Housing Plan stating that we should encourage multi-family housing in scattered areas.

When Councilman Sellers asked if Dodge Street could be widened, it was noted that the property owners would have to give up some of their land in order for that to happen.

Mr. Jones answered questions from Councilman Skalski regarding the cost of the unit and the Housing Authority's endorsement of home ownership.

Councilman Worley felt that Council should not proceed with the rezoning study for two reasons. One is that the rezoning cannot not keep the Housing Authority from building the unit; and (2) staff time will be taken away from the completion of the UDO. He felt that this area will more than likely be rezoned as a result of the UDO mapping in the spring.

When Councilman Skalski asked the neighborhood if they still wanted to proceed with the rezoning study even though the Housing Authority will be allowed to build in their area, they responded that they would like to proceed with the study. Therefore, Councilman Skalski moved to instruct Planning staff to proceed with a rezoning study of this area to R1-A. This motion was seconded by Councilman Sellers and failed on a 2-5 vote, with Mayor Martin, Vice-Mayor Field, and Councilmen Cloninger, Hay and Worley voting "no".

Vice-Mayor Field asked that the City's Traffic Engineer visit the neighborhood and see if he has any suggestions to alleviate the traffic concerns. She said that if people are willing to give the City an easement, maybe the road could be widened from 16 feet to 18 feet.

EAGLE/MARKET STREETS DEVELOPMENT CORPORATION CONTRACT

Ms. Willie Brown, member of the Eagle/Market Streets Development Corporation, corrected information printed by the newspaper regarding the hiring of the Project Coordinator for the Eagle/Market Streets Development Corporation ("EMSDC").

Councilman Hay, Chairman of the Housing and Community Development Committee ("Committee"), said that City Council has approved $185,688 CDBG funds from 1996-97 program year for the EMSDC to facilitate redevelopment of the South Pack Square area. The contract includes the balance of funds in the amount of $52,506 currently in the account, for a total of $238,194. Recent amendments have taken place to the contract and it was his suggestion that Council let the Committee review the contract prior to placing the matter on the formal agenda for August 13, 1996.

ESTABLISHMENT OF CITY BUSINESS & DEVELOPMENT COMMISSION

Ms. Julia Cogburn, Planning & Development Director, said that the Business District Coalition has recommended a draft ordinance establishing a City Business and Development Commission for the City of Asheville.

Several months ago the City Council recommended that the operations of the current City Development Office be expanded to encompass a broader range of business and development issues. In making this resolution, City Council proposed that the existing Business District Coalition be formalized and its membership be broadened to become a body which makes recommendations to Council on business and development issues. The Business District Coalition, on May 16, 1996, voted to recommend this ordinance to Council which establishes a City Business and Development Commission.

Vice-Mayor Field said that she had no problems with the ordinance or the name of the Commission, however, she felt strongly that we continue the growth in the downtown area and was concerned about the lack of focus in the downtown area. She urged Council to not change the name on the door that presently states "City Development."

Councilman Cloninger strongly supported the work of the Business District Coalition.

Discussion surrounded the success of downtown and the need to take those lessons learned from the downtown area and expand that success to other areas in the City.

Upon inquiry of Councilman Hay, Council agreed to add more groups to the Commission as they evolve.

Vice-Mayor Field moved to keep the name on the door at 29 Haywood Street as "City Development". This motion was seconded by Councilman Sellers and carried on a 6-1 vote, with Councilman Cloninger voting "no".

It was the consensus of Council to proceed with appropriate action at the next Council meeting.

CLERK TO ADVERTISE OFFER TO PURCHASE DISPOSAL PARCELS 2A AND 3A IN THE EAST RIVERSIDE REDEVELOPMENT PROJECT

Councilman Worley moved to excuse Councilman Cloninger from voting due to a conflict of interest. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mr. Ed Vess, Field Services Coordinator, said that Disposal Parcels 2A and 3A are CS Commercial Service lots located approximately 200 feet south of the intersection of Asheland and Hilliard Avenues, comprising 10,347 square feet. The lots are irregular in shape and mostly flat at street level to a depth of about 150 feet then dropping sharply about 15 feet with the rear of the lot being on grade with South Grove Street. Dritta Enterprises is a N.C. partnership composed of Eugene L. Presley, Ralph P. Presley and Richard H. Presley and is the owner of adjacent property where Hayes & Lunsford Electrical Contractors Inc. is located. The bid from Dritta Enterprises includes the proposal to incorporate 2A and 3A into its existing property and to landscape the parcels to provide a green belt buffer for its existing property.

The bid of Dritta Enterprises, in the amount of $22,250, is not less than the established minimum price of $22,250.

This action will initiate the sale of the property through the upset bid process.

Upon inquiry of Vice-Mayor Field, Mr. Vess said that these parcels would not be suitable for a greenway.

It was the consensus of Council to proceed with appropriate action at the next Council meeting.

DISCUSSION OF OFFER TO PURCHASE DISPOSAL PARCEL 2B

Councilman Worley moved to excuse Councilman Cloninger from voting due to a conflict of interest. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mr. Ed Vess, Field Services Coordinator, said that the City received an upset bid from Oak Valley Associates to purchase Disposal Parcel 2B, with their bid showing the proposed use would be for parking. Mr. Vess obtained additional clarification of the proposed use and they said that they had a timetable for development of the property with a building to be constructed in four years. The original bid by Dr. Albert Anderson was to build a medical office building on that property and he felt the highest and best use of the property would be a building, not a parking lot.

City Attorney Slawter presented three alternatives for Council. One is to proceed with the upset bid process and accept or reject the highest bid pursuant to G.S. 160A-269. He then explained the procedures

involved in the other two alternatives (Section 9 and Section 10 of the Related Laws).

Dr. Albert Anderson, original bidder, said that he is a single businessman who is going up against an association whose "pockets are deeper" than his. He proposes to build a 4,000 square feet single story medical office building, whereas, the upset bidder proposes to install a parking lot. He urged Council to stop the upset bid process and allow his bid to stand because a building is much better suited for that piece of property. He noted that he is the only minority business in that area and for years he has been asked to be kept informed of available land to purchase. He felt that it was inappropriate for Mr. Vess to notify adjoining property owners that the parcel was for sale - especially since he has never been notified of any potential sales in the area.

City Attorney Slawter recommended that since City Council is mid-way through the upset bid process, that they continue on and after there are no more upset bids received. At that time, Council can then decide whether they want to reject all bids - noting that they can be rejected for any reason. If they do decide to reject the bids, they can start with one of the other alternatives he described above.

Councilman Hay felt the City should proceed with the upset bid process to find out exactly how much the property is worth and then decide the highest and best use of the property.

City Attorney Slawter said that the advertisement for upset bids will go into the August 9, 1996, newspaper inviting another upset bid.

Vice-Mayor Field felt we needed to look at what is in the best interest for the City.

Mr. Vess responded to a concern raised by Dr. Anderson stating that all adjoining property owners have expressed interest in that property and they asked that they be informed if the property was up for sale. He felt the idea is to market the property for the highest dollar we can get. If he knows that people are interested in property in a particular area, he does let them know of their availability.

Councilman Skalski moved to postpone the advertisement for upset bids one week in order to gather additional information. This motion was seconded by Vice-Mayor Field and died on a 2-4 vote, with Mayor Martin and Councilmen Hay, Sellers and Worley voting "no".

At this time, Mayor Martin announced a five minute recess.

CONSENT AGENDA:

School Crossing Guards

Summary: The Asheville Police Department, through the use of a private contractor, provides school crossing guards at 22 sites in the City of Asheville. This service is during early morning hours and early afternoon hours, Monday through Friday.

Funds allocated in line item 10-420-35-462-01-4440, Professional Services, in the amount of $73,200.00. The only bid received was DAP Security, and their bid was an increase from $8.96 per hour in the school year 1995/96 to an increase of $9.14 per hour in the school years 1996/97 and 1997/98.

The Asheville Police Department has contracted with DAP Security since 1989 and DAP Security continues to be the only bidder for this service.

Staff recommends adoption of the resolution authorizing the City Manager to enter into an agreement with DAP Security to provide the services of School Crossing Guards for the budget years 1996/97 and 1997/98.

Keenan Bridge Replacement Project

Summary: This action will be for the selection of a contractor to design and construct a new bridge to replace the existing bridge on Keenan Drive over Haw Creek in Asheville, North Carolina.

The City, through the Public Works Department, solicited bids for this project. Two bid proposals were received, neither from a certified minority business. The bidders were qualified and are listed below:

Firm Name and Location	Base Bid
Civilworks Inc. Hickory, N.C.	$48,950 for Cast-in-Place Concrete Superstructure, Abutments and Wingwalls
Taylor & Murphy Construction Co. Inc. Asheville, N.C.	$85,000 for Concrete Box Culvert $92,000 for Concrete Deck Beam Bridge

After review of these bid proposals and the qualification process of the bidders, it was determined that Civilworks Inc. would be selected as the lowest qualified bidder and City Staff would seek Council approval to enter into a contract to design and construct the replacement bridge for the bid amount of $48,950.

Funding, in the amount of $55,000, is available in previously approved bridge program funding.

Staff recommends Council approval of the lowest qualified bidder, Civilworks Inc., and requests Council to direct the City Manager to enter into contract for $48,950 for design and construction for the replacement of the existing bridge on Keenan Drive over Haw Creek.

Budget Amendment re: Public Nuisance Abatement Team Grant

Summary: An appropriation of $77,781 is requested to fund the police department Public Nuisance Abatement Team project with $54,750 of project costs being provided through a federal grant.

The City has been awarded a federal grant through the Governor's Crime commission in the amount of $54,750 to support the police department Public Nuisance Abatement Team project. At the time of the grant application, one year project costs were estimated at $73,000, requiring a $18,250 local match. The grant application and local match were authorized by Council May 14, 1996, Resolution # 96-73.

Project costs are now estimated at $77,781. The increase in costs is attributed to salary and fringe benefit expenses of the officer assigned to the project. Therefore, a local match of $23,031 is necessary to fund the project. The source of the local match is the General Fund contingency.

Intent to Close Alley Joining Miller Avenue and Pond Avenue

Summary: This resolution will set a public hearing on September 10, 1996, to consider the closing of an unnamed alley joining Miller Avenue and Pond Avenue.

FAA Grant Agreement

Summary: The Airport Authority has asked City Council to approve a grant from the FAA in the amount of $170,094. This grant, in the amount of $170,094, consists of the project to rehabilitate the air carrier apron.

Grant Application for Enrichment Activities for After School Intercession Program at Hall Fletcher Elementary School

Summary: The Parks and Recreation After School Intercession Program at Hall Fletcher provides a supervised licensed child care and recreation program during the year-round school vacation for one week five times a year for approximately 125 children per session, ages 5 to 12 years old. Each Intercession offers a variety of recreation enrichment activities including games, arts and crafts, sports, music, drama, nature, clubs, homework assistance, and fieldtrips. Grant funds will be used in 1997 to implement the "Learn to Ski Program" during the Winter Intercession and "Hooked on Golf" during the Spring Intercession. The amount of the grant request is approximately $5,000. Partners in the project are Asheville Parks and Recreation Department, Asheville City Schools, Buncombe County Child Development, and the French Broad Golf Center.

Funds are available through the Community Foundation of Western North Carolina to provide prevention and intervention programs that build self-confidence and life skills for children. The City of Asheville wishes to apply for funding for enrichment activities at the After School Intercession Program at Hall Fletcher Elementary School.

The Parks and Recreation Department recommends the City of Asheville apply for the grant funds through the Community Foundation of Western North Carolina.

Adopt A Street Program

Summary: This formalized program was modeled after a current Statewide (Adopt-A-Road) program which utilizes volunteer individuals and groups to keep public streets and walkways clean and free of debris and rubbish.

The original program draft dates from early 1991, and the current draft has been revised several times in the past eight months. The drafting of a comprehensive document has been arduous in light of the many difficulties the State has had in the past with controversial volunteer groups and public reaction to them. Staff is now confident that the program as written provides sensible policies and procedures for participants and a minimum of potential problems for the City.

In tandem with formulating the written program, the Department has worked closely with Quality Forward to develop and print brochures for public distribution and to promote the program within the community. In addition, the Department has stocked plastic bags, safety supplies, and ordered sign blanks. A safety program (briefing), modeled after the State's program, is almost complete. The program is poised to be implemented with minimum additional preparation.

The Public Works staff recommends that City Council adopt a Resolution for the implementation of the Adopt-A-Street Program. Such a program will provide the City and its citizens a means to work together in litter collection to enhance existing efforts and programs.

Design firm for City Hall Roof and Exterior Walls Renovation

Summary: In an effort to preserve and repair the roof and exterior walls of the City Hall building, a request for proposal process was implemented to solicit architectural/engineering firms to provide proposals to provide design services for repair of the above-stated elements.

Requests for proposal were submitted to 57 architectural/ engineering firms, seven of which were from certified minority businesses. A committee comprised of four City staff was established to review the proposals received for this project. Group members were Dick Meehan, Superintendent of Parks and Public Facilities; Maggie O'Connor, Director of Historic Resources; Al Kopf, Landscape Architect; and Lyle Willis, Contract Administrator. This request for proposal committee received 16 proposal submittals, none of which were from certified minority businesses.

The request for proposal committee met to review all proposals. Criteria used in the review process were set up in a matrix system designed to evaluate each of the firms based on experience, quality of work, experience with and quality of projects of similar scope; and each firm's internal processes addressing procedures for: project analysis, cost control, materials testing, structural evaluation, and experience with repairs to terra cotta and brick. A numerical value was assigned to each of these areas and the three firms with the highest score were requested to come in for an in-depth interview covering issues ranging from restoration philosophy to extent of staff involvement with this project.

Upon the conclusion of the interview process, one firm was selected as the best choice for this project.

Staff recommends approval of the firm William Flynn Wescott, P.E. and Ellen Pratt Harris, AIA, for this project and requests Council approval to direct the City Manager to enter into an architectural/engineering contract for design services to preserve and repair the roof and exterior walls of the City Hall building.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

BOARDS AND COMMISSION:

It was the consensus of Council to instruct the City Clerk to arrange interviews for vacancies on the following boards and commissions: (1) ADA Compliance Committee; (2) Civic Center Commission; (3) Police Officers and Firefighters Disability Review Board; (4) Planning & Zoning Commission; and (5) Tree/Greenway Commission.

It was also the consensus of Council to (1) reappoint Michael Keleher and James Lewis to the Police Officers and Firefighters Disability Review Board; (2) appoint Carol King to the Asheville Downtown Commission; (3) reappoint Jim Torpey and Jane Gianvito Mathews to the Planning & Zoning Commission; (4) reappoint J. Randolph Fluharty to the Tourism Development Authority; (5) reappoint Peter Loewer and Joey Moore and appoint Dr. J. Lowell Orbison (as an ex-officio member)

to the Tree/Greenway Commission; (6) appoint S. Douglas Spell to the Victoria of Asheville Board of Directors; and (7) reappoint Charles Worley to the Asheville-Buncombe Water Authority.

CLOSED SESSION

At 9:15 p.m., Councilman Worley moved to go into closed session, as authorized by G.S. 143-318.11 (a) (3) to consult with the City Attorney in order to preserve the attorney-client privilege, including discussion of a civil action filed by the Historic Resources Commission and others against the Board of Adjustment (96 CVS 3300); and as authorized by G.S. 143-318.11 (a) (5) to instruct City staff regarding the position to be taken in negotiating the price and other material terms related to the potential acquisition by the City of real property located on Beverly Road and on Hendersonville Road. This motion was seconded by Councilman Skalski and carried unanimously.

At 10:15 p.m., Vice-Mayor Field moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 10:15 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - August 13, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson

Absent: City Manager James L. Westbrook Jr.

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING AWARD

Asst. City Manager Spell presented Finance Director Bill Schaefer with the Certificate of Achievement for Excellence in Financial Reporting Award. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. The City of Asheville is proud to have received this award for the 16th year.

He also presented R. Patricia Leckey, City Accountant, with the Award of Financial Reporting Achievement. Ms. Leckey was designated the individual primarily responsible for preparing the award-winning comprehensive annual financial report.

Mr. Joe Elkins, Ms. Dotty Lawing and Ms. Barbara Smith were also recognized for their work in achieving the awards.

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING TO REZONE 865 HAYWOOD ROAD AND 2 DYSART STREET FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY

Mayor Martin said that this public hearing was opened on April 9, 1996, and continued until June 11, 1996. On June 11, 1996, the public hearing was again continued pursuant to a request of the petitioner's attorney Mr. Joseph Herrin.

Mr. Carl Ownbey, Urban Planner, said that the petition requests that 865 Haywood Road and 2 Dysart Street be rezoned from R-3 Medium Density Residential to CH Commercial Highway.

The subject properties are two tax lots. Both lots contain commercial structures. The 2010 Plan recommends that this area be low density residential; however, the current character of the area has changed with the development of commercial uses. The subject property is surrounded by R-3 Residential and abuts the CH District.

The Planning staff reviewed the request and recommended that PIN No. 9638.09-05-6710 be rezoned to CH and that PIN No. 9638.09-05-5728 remain zoned R-3. At their February 7, 1996, meeting, the Planning & Zoning Commission voted unanimously to recommend denial of both lots.

On March 8, 1996, the petitioner filed an appeal to City Council.

Mr. Joseph Herrin, Attorney for the Petitioner, presented Council with pictures of the properties in question and briefed them on why the petitioner was requesting the properties to be rezoned. He stressed that
both lots are primarily asphalt with a commercial building on it. He felt that if the properties remained zoned residential, they would be worthless. He said that the properties are not suitable for residential development and they cannot be marketed as such. He felt that a buyer would have trouble financing this property with the nonconforming status. He presented Council with some affidavits from surrounding property owners that do support the rezoning request.

There was some discussion about the condition of the buildings on the properties.

When Vice-Mayor Field asked if there was any indication on what this area would be rezoned to after the UDO mapping was complete, Mr. Ownbey stated that the west area hasn't been looked at yet.

Upon inquiry of Councilman Skalski, Mr. Herrin stated that he did not, nor the owner Mr. Brackett, contact the neighborhood to see if there was any solution to the neighborhood concerns.

Discussion then surrounded the commercial building on the property and the repairs that can occur to the building subject to conditions outlined in Section 30-3-3 of the Code of Ordinances dealing with nonconforming uses.

Ms. Jane Mathews, Planning & Zoning Commission member, said that the major concerns expressed by the neighborhood at their public hearing were (1) the encroachment of commercial into single family residences on Cloyes Street and (2) the narrowness of Dysart Street. She said the Commission members considered all the other potential uses that would be permitted in the commercial district if the lots were rezoned, some of them having a high volume of traffic.

Ms. Christine Mashburn, resident on Cloyes Street, spoke against the rezoning for several reasons, some being (1) the narrowness of Dysart and Cloyes Streets, (2) Dysart and Cloyes Streets are both deadends, (3) the area cannot handle any additional traffic, (4) most families are retired in that area and if commercial continues to encroach in their neighborhood, they could not afford relocate; (5) there would be an increase in noise; (6) they feel their property values would decrease with commercial development; (7) there are many other uses that can be built in a commercial district; and (8) they are a quiet neighborhood and they want to stay that way.

Ms. Sylvia Robinson spoke against the proposed rezoning.

Mr. Dennis Campbell, President of the Falconhurst Residents Association, spoke against the proposed rezoning stating that this would be an encroachment into a quiet neighborhood.

Mr. Dennis Russell, speaking on behalf of the neighbors in the Dysart Street community, also spoke against the rezoning. He cited several reasons similar to Ms. Mashburn noting that the peace and tranquillity of the neighborhood should not be jeopardized.

Mr. Miles Goforth spoke against the rezoning and felt that the asphalt could be removed and houses built. He said we need to have more neighborhoods.

Ms. Leni Sitnick stated that the uses in the R-3 district are multiple and the property can be used extensively. She spoke against the rezoning.

Mr. Richard Nantelle, President of the Coalition of Asheville Neighborhoods, felt that this property location might soon fall into the transition zone in the UDO mapping. He urged Council to not rezone the property until the mapping is complete. This would be for the protection of the neighborhoods and the people who live in them.

Vice-Mayor Field suggested that Mr. Brackett contact the Housing Authority because these properties might be suitable for their scattered sites if they remain zoned residential. She felt that since the UDO mapping is in process and will be done within months, she preferred to hold off rezoning any properties.

Mayor Martin closed the public hearing at 5:52 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Sellers moved not to rezone 865 Haywood Road and 2 Dysart Street from R-3 Medium Density Residential to CH Commercial Highway. This motion was seconded by Councilman Skalski and carried unanimously.

B. PUBLIC HEARING RELATIVE TO THE DEMOLITION OF 20 GEORGIA AVENUE, ALSO KNOWN AS, 20 ATLANTA AVENUE

ORDINANCE NO. 2307 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 20 GEORGIA AVENUE, ALSO KNOWN AS 20 ATLANTA AVENUE

Mayor Martin opened the public hearing at 5:52 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Electrical Inspector Supervisor, said that 20 Georgia Avenue. aka 20 Atlanta Avenue is a dilapidated structure. The owners Herman L. Horne and wife, Thelma D. Horne have not responded to the Order of the Assistant Director of the then Building Safety Division to repair or demolish this structure. 20 Georgia Avenue, aka 20 Atlanta Avenue was inspected by Building Safety Department staff on 4/22/94. Inspector Ray Pruitt found the following conditions, which have been documented by still photographs and video tape:

- The dwelling walls and floors are structurally unsound.
- The dwelling has insufficient sanitary facilities.
- The dwelling is abandoned and being occupied by vagrants.

Inspector Ray Pruitt sent a correction order to the property taxpayer of record on 4/11/94. There was no response. A formal hearing was then scheduled and held on 8/28/95 and no one attended. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the owner

Herman L. Horne and wife, Thelma D. Horne to repair or demolish 20 Georgia Avenue aka 20 Atlanta Avenue within 30 days on 9/15/95. As of this date, no action has been taken by the owner of legal record.

N.C.G.S. 160.A-443(5) authorizes the City Council to direct by ordinance the demolition of 20 Georgia Avenue AKA 20 Atlanta Avenue subsequent to failure of the owner Herman L. Horne and wife, Thelma D. Horne to demolish or repair as described above, N.C.G.S. 160A-443(6) authorizes placement of a lien on the property to recover the cost of a demolition so ordered by City Council.

- Fair market value of house is $5,900.
- Value to rebuild the house only is $90,884.00.
- Land value without the house is $2,000.00.
- Estimated cost to demolish this house is $11,275.00.

The Building Safety Director recommends adoption of the resolution setting the public hearing regarding demolition of 20 Georgia Avenue, aka 20 Atlanta Avenue.

Mayor Martin closed the public hearing at 5:55 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2307. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2307 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 66

III. UNFINISHED BUSINESS:

A. RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE TRACT 3 IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

Mayor Martin said that this matter was tabled from the June 23, 1996, meeting in order for Council to obtain additional information.

Mr. Ed Vess, Field Services Coordinator, briefed Council that Tract 3 is a residential lot on Short Street comprising 5,532 square feet. The bid from J. C. and Shirley Dozier for Tract 3 includes no plans to build on the lot but Tract 3 is to be assembled with property currently owned by the Doziers.

The bid of Mr. and Mrs. Dozier, in the amount of $3,300.01, is not less than the established minimum price of $3,300. This resolution will initiate the sale of the property through the upset bid process.

At the Council's worksession on July 23, 1996, Council asked that he meet with the Montford Advisory Committee to get their input.

Ms. Myra Fuller, member of the Montford Neighborhood Advisory Committee, said that the Head of Montford Redevelopment Plan is still viable today and the community stands by what is laid out in that Plan. She said the Plan states that the Advisory Committee is to assist the administration of the Plan and the Committee unanimously voted to recommend to City Council that they postpone consideration of the bid on

Tract 3 in the Head of Montford Redevelopment Plan. The Committee felt that this is not the time to sell off pieces of publicly held property in the first block of Montford Avenue. The first steps are being taken now in the neighborhood commercial portion of the Plan, with the expansion of Hunter Banks property. Serious development interests are being expressed about the property north of Hunter Banks - development that is consistent with the Redevelopment Plan. All the property held by the City in the first block of Montford must be held for consideration in the development proposal which they feel confident will be forthcoming in the next 12 months.

Upon inquiry of Councilman Cloninger, City Attorney Slawter said that since the City has received an unsolicited offer, the Council should have a motion to reject the offer.

Ms. Mary Jo Brezny said that the Committee felt that if all property could be held for a minimum of 12 months, that the development interests hopefully would have taken a very positive action within that period of time. If not, then the Committee could look at it again.

Ms. Julia Cogburn, Planning Director, felt that Council might not want to put a 12 month restriction on offers because that might limit staff from bringing larger pieces of property to the Council for consideration.

Councilman Worley moved to reject the offer to purchase Tract 3 in the Head of Montford from J.C. and Shirley Dozier in the amount of $3,300.01. This motion was seconded by Councilman Skalski and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH EAGLE/MARKET STREETS DEVELOPMENT CORPORATION TO FACILITATE REDEVELOPMENT OF SOUTH PACK SQUARE AREA

Councilman Hay, Chairman of the Housing & Community Development Committee, reminded Council that last spring the Eagle/Market Street Development Corporation ("EMSDC") brought to Council a proposal for redevelopment on South Pack Square under the CDBG grant program. At that time Council indicated to them that they were interested in that as being one way to allocate the federal redevelopment funding. Council asked for them to come back with a more specific proposal and to iron some other problems that were outlined. However, Council did set aside that money in the allocation budget in anticipation of having a good application from them. We have received an application that came before Council at the August 6, 1996, worksession. There were some changes made and since Dr. Grant (Chairman of the EMSDC) was not present, it was referred to the Housing & CD Committee. That Committee has met and it is their recommendation that the allocation be approved in the amount of $238,194. The specifics of their proposals have to do with taking the first steps toward redevelopment of South Pack Square. The Committee reviewed the scope of services and are satisfied with the application. There are, however, a couple of things that need to be worked on yet, one of which is a more specific proposal around the $100,000 land acquisition. Again, the Committee did recommend (on a 2-1 vote) that the proposal was ready to go forward and they did recommend the allocation.

Vice-Mayor Field said that she wanted to "bring forward the conflict of interest situation that has come before us many times in terms of my relationship with the Eagle/Market CDC. I am a salaried

employee of Spaceplan Architect Interiors and Planning, P.A., which is a professional association. I do not participate in the profits or losses or the firm, and in fact I have not had a raise since I got on Council. I am not participating in any growth that has any affect on Spaceplan Architects. When we last voted on the Eagle/Market CDC, when we had the last Housing & Community Development Committee meeting, Mr. Skalski was very concerned about my conflict of interest. This was a meeting where we were going to be voting on all the CDBG applications and there were 10 or 15 different organizations there. Because he was very concerned about my apparent, because it was not a legal conflict of interest, I am not an employee of the firm that has had anything to do with Eagle/Market. He had a problem with it and I said I would not vote on that particular project in the Housing & CD meeting. That discussion happened. It was decided on. I did vote on the rest of the CD applications. At that point in time, Carroll Hughes, who owns Spaceplan, had made a proposal through a separate firm that he owns, to be a consultant to the Eagle/Market CDC, although I had nothing to do with that organization. One thing I do need to let everyone know is that Spaceplan Architect has been doing the roof work on the church, the Mt. Zion Church, and was hired by Dr. Grant to do this work. Just so everybody knows that is true. I am not working on that project. I am not the project manager. I have had nothing to do with that project, although Spaceplan is indeed employed by the Mt. Zion Church and the Chairman of the Eagle/Market CDC is the Pastor of the Mt. Zion Church. Mr. Hughes was not selected to the consultant for the Eagle/Market CDC. Mr. Bill Farris, who was the Interim City Manager here, has been selected by Eagle/Market CDC. To make it a little more complicated, I was, at one point, hired by Mr. Farris to do some drawings for a project in Wilmington, N.C., which we have completed and have been paid for those drawings - not we, but me, at the rate of $400. We are done with that. I do believe I would like some kind of direction from Mr. Slawter telling me whether I have a conflict of interest in this particular situation. At this point I'm not even sure where I am. But, at the meeting earlier today, Patsy said that I did not have a conflict of interest."

City Attorney Slawter responded that the bottom line under the General Statute is whether there is any personal financial gain that might arise by virtue of your vote on this situation. G.S. 160A-75 directs that Council members vote on all matters before the Council until their own financial gain or personal conduct is at issue. In his opinion, there is no conflict of interest.

Councilman Worley said that he, too, is convinced that Vice-Mayor Field has no conflict of interest, and it does concern her greatly that this issue has been raised. Because of her concern, he moved to excuse Vice-Mayor Field from voting. This motion was seconded by Councilman Cloninger.

When Mayor Martin inquired whether a member could be excused from a perceived conflict of interest, City Attorney Slawter said that he takes the motion to mean that if Council votes "yes" on the motion, I would take that motion to mean that Council is of the opinion that there is a conflict of interest - not just a perceived conflict of interest. City Attorney Slawter suggested, as an alternative, that, since Council members can be excused from the meeting, that Council table this issue until the last item of business on the agenda, excuse Vice-Mayor Field, and then vote on the matter.

Councilman Worley withdrew his motion to excuse Vice-Mayor Field from voting. Councilman Cloninger withdrew his second.

Because Dr. Grant and other members of the EMSDC were present, Council felt that instead of making them wait until the end of the meeting, they would entertain their comments at this time.

Dr. John H. Grant, Chairman, President, and Chief Executive Officer for the EMSDC, thanked Council for their support of the EMSDC and was anxious to move forward with this public interest project.

Ms. Willie Mae Brown, member of the EMSDC, appreciated Council's attention to the Eagle/Market Street area and was also anxious to see the area developed in an orderly and decent fashion.

Councilman Worley moved to table this matter until the last item on Council's agenda. This motion was seconded by Councilman Sellers and carried unanimously.

B. RESOLUTION NO. 96-139 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE DISPOSAL PARCELS 2A AND 3A IN THE EAST RIVERSIDE REDEVELOPMENT PROJECT

Councilman Cloninger asked that he be excused from voting because his firm, of which he is a partner, represents the parties who have bid on this property. Therefore, Councilman Sellers moved to excuse Councilman Cloninger from voting due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously.

Mr. Ed Vess, Field Services Coordinator, said that Disposal Parcels 2A and 3A are CS Commercial Service lots located approximately 200 feet south of the intersection of Asheland and Hilliard Avenues, comprising 10,347 square feet. The lots are irregular in shape and mostly flat at street level to a depth of about 150 feet then dropping sharply about 15 feet with the rear of the lot being on grade with South Grove Street. Dritta Enterprises is a N.C. partnership composed of Eugene L. Presley, Ralph P. Presley and Richard H. Presley and is the owner of adjacent property where Hayes & Lunsford Electrical Contractors Inc. is located. The bid from Dritta Enterprises includes the proposal to incorporate 2A and 3A into its existing property and to landscape the parcels to provide a green belt buffer for its existing property.

The bid of Dritta Enterprises, in the amount of $22,250, is not less than the established minimum price of $22,250.

This action will initiate the sale of the property through the upset bid process.

Upon inquiry of Vice-Mayor Field, Mr. Vess said that the income from the sale would go into the Community Development Program Income budget.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-139. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 264

C. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A NON-WARRANTY DEED TO DAWN H. LANTZIUS

Councilman Cloninger asked that he be excused from voting because his firm, of which he is a partner, represents Ms. Lantzius. Therefore,

Councilman Worley moved to excuse Councilman Cloninger from voting due to a conflict of interest. This motion was seconded by Councilman Sellers and carried unanimously.

City Attorney Slawter said that a wall adjacent to Tingle Alley collapsed earlier this year, making the alley no longer passable. Dawn H. Lantzius owns a substantial portion of the property surrounding the alley and adjacent open court, including the alley upon which the failed wall was located. Requests have been made to the City to repair the wall and alley, but it is the position of the City that the alley, the adjacent open court and the wall are all on private property and are not a City responsibility. Dawn H. Lantzius has requested that the City clarify that matter by granting a non-warranty deed to her so as to enable her to make repairs.

This resolution will authorize the Mayor to execute a non-warranty deed to Dawn H. Lantzius conveying any interest that the City might have in Tingle Alley and the adjacent open court.

As directed by the Council, notice of this intended action was given to the other property owners that surround the alley and adjacent open court. Those owners are, in addition to Ms. Dawn Lantzius, Sluder Furniture, Finkelsteins and the Paradise Restaurant.

Mr. Doug Wilson, attorney representing Ms. Dawn Lantzius, said that he has talked with Mr. Justice (attorney for Sluder Furniture) and they request that Council table this action for one month and give the other property owners a chance to see if they can work out a private resolution. The problem is that they have expended approximately $20,000 already on this wall and there is more work to be done. However, they do recognize that the other property owners to have legitimate concerns and interests. He did request a chance to try and work these out.

Mr. Craig Justice, attorney representing Wayne Caldwell and Sluder Furniture, also asked Council to delay action on this matter in order to give them time to discuss this in a private fashion. His client only received notice yesterday and they have not had adequate time to review the matter.

Vice-Mayor Field moved to table this matter until September 24, 1996. This motion was seconded by Councilman Worley and carried unanimously.

D. MOTION TO AUTHORIZE THE MAYOR TO EXECUTE THE RESTATED AND AMENDED SUPPLEMENTAL WATER AGREEMENT

City Attorney Slawter said that on July 9, 1996, the City Council approved the adoption of Resolution No. 96-122 which authorized the Mayor to execute a Restated and Amended Supplemental Water Agreement, subject to certain revisions being made to Section T of Article IV of the Restated and Amended Supplemental Water Agreement. Section T of Article IV of the Restated and Amended Supplemental Water Agreement included provisions regarding disposition of property of the water system. After the approval of this language by City Council on July 9, Buncombe County requested that Section T be deleted and that a phrase regarding disposition of property in Section C of Article XI (which relates to termination of the Agreement) also be deleted.

The Restated and Amended Supplemental Water Agreement includes the changes to the Supplemental Water Agreement to comply with the obligations of the bond documents for the issuance of water revenue

bonds for the construction of the new regional water plant, new transmission lines and other associated improvements to the water system. The changes requested by Buncombe County will not affect compliance with the obligations of the bond documents.

Councilman Worley moved to authorize the Mayor to execute the Restated and Amended Supplemental Water Agreement, with the deletion of Section T of Article IV and deletion of a phrase from Section C of Article XV of the Restated and Amended Supplemental Water Agreement. This motion was seconded by Vice-Mayor Field and carried unanimously.

V. CONSENT:

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 23, 1996, THE COMMUNITY MEETING HELD ON JULY 30, 1996, AND THE WORKSESSION HELD ON AUGUST 6, 1996

B. RESOLUTION NO. 96-140 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE CONTRACT WITH DAP SECURITY INC. FOR SCHOOL CROSSING GUARDS

Summary: The Asheville Police Department, through the use of a private contractor, provides school crossing guards at 22 sites in the City of Asheville. This service is during early morning hours and early afternoon hours, Monday through Friday.

Funds allocated in line item 10-420-35-462-01-4440, Professional Services, in the amount of $73,200.00. The only bid received was DAP Security, and their bid was an increase from $8.96 per hour in the school year 1995/96 to an increase of $9.14 per hour in the school years 1996/97 and 1997/98.

The Asheville Police Department has contracted with DAP Security since 1989 and DAP Security continues to be the only bidder for this service.

Staff recommends adoption of the resolution authorizing the City Manager to enter into an agreement with DAP Security to provide the services of School Crossing Guards for the budget years 1996/97 and 1997/98.

RESOLUTION BOOK NO. 23 - PAGE 265

C. RESOLUTION NO. 96-141 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CIVILWORKS INC. TO DESIGN AND CONSTRUCT A REPLACEMENT FOR THE EXISTING BRIDGE ON KEENAN DRIVE OVER HAW CREEK IN ASHEVILLE, N.C.

Summary: The City, through the Public Works Department, solicited bids to design and construct a new bridge to replace the existing bridge on Keenan Drive over Haw Creek. Two bid proposals were received, neither from a certified minority business. The bidders were qualified and are listed below:

Firm Name and Location	Base Bid
Civilworks Inc. Hickory, N.C.	$48,950 for Cast-in-Place Concrete Superstructure, Abutments and Wingwalls
Taylor & Murphy Construction Co. Inc. Asheville, N.C.	$85,000 for Concrete Box Culvert $92,000 for Concrete Deck Beam Bridge

After review of these bid proposals and the qualification process of the bidders, it was determined that Civilworks Inc. would be selected as the lowest qualified bidder and City Staff would seek Council approval to enter into a contract to design and construct the replacement bridge for the bid amount of $48,950.

Funding, in the amount of $55,000, is available in previously approved bridge program funding.

Staff recommends Council approval of the lowest qualified bidder, Civilworks Inc., and requests Council to direct the City Manager to enter into contract for $48,950 for design and construction for the replacement of the existing bridge on Keenan Drive over Haw Creek.

RESOLUTION BOOK NO. 23 - PAGE 266

D. RESOLUTION NO. 96-142 - RESOLUTION OF INTENT TO SET A PUBLIC HEARING ON SEPTEMBER 10, 1996, TO CLOSE AN UNNAMED ALLEY JOINING MILLER AVENUE AND POND AVENUE IN THE CITY OF ASHEVILLE

RESOLUTION BOOK NO. 23 - PAGE 267

E. RESOLUTION NO. 96-143 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A FEDERAL AVIATION GRANT AGREEMENT

Summary: The Airport Authority has asked City Council to approve a grant from the FAA in the amount of $170,094. This grant, in the amount of $170,094, consists of the project to rehabilitate the air carrier apron.

RESOLUTION BOOK NO. 23 - PAGE 269

F. RESOLUTION NO. 96-144 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WILLIAM FLYNN WESCOTT, P.E., AND ELLEN PRATT HARRIS, AIA, TO PROVIDE ARCHITECTURAL/ENGINEERING SERVICES TO PRESERVE AND REPAIR THE ROOF AND EXTERIOR WALLS OF THE CITY HALL BUILDING

Summary: In an effort to preserve and repair the roof and exterior walls of the City Hall building, a request for proposal process was implemented to solicit architectural/engineering firms to provide proposals to provide design services for repair of the above-stated elements.

Requests for proposal were submitted to 57 architectural/engineering firms, seven of which were from certified minority businesses. A committee comprised of four City staff was established to review the proposals received for this project. Group members were Dick Meehan, Superintendent of Parks and Public Facilities; Maggie O'Connor, Director of Historic Resources; Al Kopf, Landscape Architect; and Lyle Willis, Contract Administrator. This request for

proposal committee received 16 proposal submittals, none of which were from certified minority businesses.

The request for proposal committee met to review all proposals. Criteria used in the review process were set up in a matrix system designed to evaluate each of the firms based on experience, quality of work, experience with and quality of projects of similar scope; and each firm's internal processes addressing procedures for: project analysis, cost control, materials testing, structural evaluation, and experience with repairs to terra cotta and brick. A numerical value was assigned to each of these areas and the three firms with the highest score were requested to come in for an in-depth interview covering issues ranging from restoration philosophy to extent of staff involvement with this project.

Upon the conclusion of the interview process, one firm was selected as the best choice for this project.

Staff recommends approval of the firm William Flynn Wescott, P.E. and Ellen Pratt Harris, AIA, for this project and requests Council approval to direct the City Manager to enter into an architectural/engineering contract for design services to preserve and repair the roof and exterior walls of the City Hall building.

RESOLUTION BOOK NO. 23 - PAGE 270

G. RESOLUTION NO. 96-145 - RESOLUTION APPOINTING A BOARD OF DIRECTOR TO VICTORIA OF ASHEVILLE INC.

Summary: On June 30, 1996, Larry A. Fisher resigned as a member of the Board of Directors of Victoria of Asheville, Inc. This resolution will appoint Mr. S. Douglas Spell to serve the unexpired term of Mr. Fisher. His term will expire on November 29, 1997, or until his successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 271

H. RESOLUTION NO. 96-146 - RESOLUTION APPROVING THE CITY OF ASHEVILLE ADOPT-A-STREET PROGRAM

Summary: This formalized program was modeled after a current Statewide (Adopt-A-Road) program which utilizes volunteer individuals and groups to keep public streets and walkways clean and free of debris and rubbish.

The original program draft dates from early 1991, and the current draft has been revised several times in the past eight months. The drafting of a comprehensive document has been arduous in light of the many difficulties the State has had in the past with controversial volunteer groups and public reaction to them. Staff is now confident that the program as written provides sensible policies and procedures for participants and a minimum of potential problems for the City.

In tandem with formulating the written program, the Department has worked closely with Quality Forward to develop and print brochures for public distribution and to promote the program within the community. In addition, the Department has stocked plastic bags, safety supplies, and ordered sign blanks. A safety program (briefing), modeled after the State's program, is almost complete. The program is poised to be implemented with minimum additional preparation.

The Public Works staff recommends that City Council adopt a Resolution for the implementation of the Adopt-A-Street Program. Such a program will provide the City and its citizens a means to work together in litter collection to enhance existing efforts and programs.

RESOLUTION BOOK NO. 23 - PAGE 272

I. **RESOLUTION NO. 96-147 - RESOLUTION AUTHORIZING AN AGREEMENT WITH THE COMMUNITY FOUNDATION OF WNC FOR A GRANT TO DEVELOP AND IMPLEMENT THE "LEARN TO SKI" AND "HOOKED ON GOLF" ENRICHMENT ACTIVITIES IN THE AFTER SCHOOL INTERCESSION PROGRAM AT HALL FLETCHER ELEMENTARY SCHOOL**

Summary: The Parks and Recreation After School Intercession Program at Hall Fletcher provides a supervised licensed child care and recreation program during the year-round school vacation for one week five times a year for approximately 125 children per session, ages 5 to 12 years old. Each Intercession offers a variety of recreation enrichment activities including games, arts and crafts, sports, music, drama, nature, clubs, homework assistance, and fieldtrips. Grant funds will be used in 1997 to implement the "Learn to Ski Program" during the Winter Intercession and "Hooked on Golf" during the Spring Intercession. The amount of the grant request is approximately $5,000. Partners in the project are Asheville Parks and Recreation Department, Asheville City Schools, Buncombe County Child Development, and the French Broad Golf Center.

Funds are available through the Community Foundation of Western North Carolina to provide prevention and intervention programs that build self-confidence and life skills for children. The City of Asheville wishes to apply for funding for enrichment activities at the After School Intercession Program at Hall Fletcher Elementary School.

The Parks and Recreation Department recommends the City of Asheville apply for the grant funds through the Community Foundation of Western North Carolina.

RESOLUTION BOOK NO. 23 - PAGE 273

J. **MOTION SETTING A PUBLIC HEARING ON AUGUST 27, 1996, TO CONSIDER REZONING 7 MOUNTAIN VIEW ROAD FROM R-2 LOW DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY**

K. **MOTION SETTING A PUBLIC HEARING ON AUGUST 27, 1996, TO REZONE ONE LOT ON MARTIN LUTHER KING JR. DRIVE FROM CG COMMERCIAL GENERAL TO R-3 MEDIUM DENSITY RESIDENTIAL**

L. **MOTION SETTING A PUBLIC HEARING ON AUGUST 27, 1996, TO CONFIRM THAT THE BOARD OF ADJUSTMENT DOES NOT HAVE THE POWER TO GRANT A VARIANCE TO GUIDELINES ADOPTED OR USED BY THE HISTORIC RESOURCES COMMISSION OF ASHEVILLE AND BUNCOMBE COUNTY IN REVIEWING APPLICATIONS FOR CERTIFICATES OF APPROPRIATENESS**

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Skalski moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2308 - BUDGET AMENDMENT RELATIVE TO THE PUBLIC NUISANCE ABATEMENT TEAM

Summary: This budget amendment, in the amount of $77,781, is to appropriate funds for the Police Department's Public Nuisance Abatement Team project.

ORDINANCE BOOK NO. 16 - PAGE 68

B. ORDINANCE NO. 2309 - ORDINANCE ESTABLISHING A CITY BUSINESS AND DEVELOPMENT COMMISSION

Summary: The Business District Coalition has recommended a draft ordinance establishing a City Business and Development Commission for the City of Asheville.

Several months ago the City Council recommended that the operations of the current City Development Office be expanded to encompass a broader range of business and development issues. In making this resolution, City Council proposed that the existing Business District Coalition be formalized and its membership be broadened to become a body which makes recommendations to Council on business and development issues. The Business District Coalition, on May 16, 1996, voted to recommend this ordinance to Council which establishes a City Business and Development Commission.

ORDINANCE BOOK NO. 16 - PAGE 70

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and only reading.

VI. OTHER BUSINESS:

A. REZONING OF 28 LOTS IN THE BROADWAY AVENUE AREA

Ms. Julia Cogburn, Planning Director, said that on August 7, 1996, the Planning & Zoning Commission ("Commission") voted (4-3) to recommend to City Council that the rezoning of all or a portion of 13 lots on Broadway Avenue, Hillside Street and West Street be rezoned from CH Commercial Highway to R-3 Medium Density Residential be denied.

Also, on that same date the Commission voted (4-3) to recommend that the rezoning of 15 lots on Broadway Avenue, West Chestnut Street and Magnolia Street from CH Commercial Highway to R-3 Medium Density Residential be denied.

She said that according to the ordinance, the petitioner (which in this case is City Council) receives notification of the recommendation of the denial. The petitioner has 30 days from receipt of that notice to appeal to City Council. She said that the notification has been hand delivered to the Mayor and Council members on August 13, 1996, and she is now reporting that if Council would like to hold a public hearing on this matter, a public hearing will need to be set.

During the course of the meeting, information did come forward concerning one of the pieces of property in that area where the Planning staff had already received a site plan for Oliver Business Forms. They have issued a zoning permit, however, they have not received their building permit, which is one of the ways that they could receive vested rights. Mr. Oliver does not think he can submit the construction drawings necessary to receive a building permit prior to the time Council might consider the rezoning request. Another way that vested rights could be established in Mr. Oliver for his proposed interest in this property, would be to actually have City Council conduct a public hearing and grant him vested rights in terms of a site specific development plan, which he would bring forward to Council at that public hearing. That would vest that specific plan on that piece of property in Mr. Oliver for a two year period of time. If Council does choose to hold a public hearing on this matter, the issue of Mr. Oliver's vested rights could be considered at that same meeting. Mr. Oliver's matter would need to be addressed prior to the time Council actually rezones the property. Both of those public hearings could be scheduled today for August 27, 1996.

Ms. Cogburn said that the Planning Department has received a letter today from Mr. Oliver asking for the vested rights.

Upon inquiry of Vice-Mayor Field, Ms. Cogburn felt that the R-3 Medium Residential District will reserve options for the City Council in those areas.

Councilman Cloninger wanted to make sure Council had as much flexibility as possible for a greenway on Broadway Avenue.

City Attorney Slawter advised that under the Zoning Ordinance if an application for a vested right is received, it is the City Council's obligation to look at that application and make a determination on it.

Ms. Cogburn responded to questions from Vice-Mayor Field relating to Council's authority to place conditions on the site plan.

Councilman Cloninger moved to authorize the Mayor to file written notice with the City Clerk's Office appealing the decision of the Planning & Zoning Commission and scheduling a public hearing before the City Council regarding that rezoning of 28 lots in the Broadway Avenue area on August 27, 1996. This motion was seconded by Councilman Skalski and carried unanimously.

Councilman Cloninger moved to schedule a public hearing on August 27, 1996, to consider the approval of a site plan and the granting of a zoning vested right for Oliver Business Forms, to be located on Broadway Avenue, south of the intersection of Broadway Avenue and North Street, said public hearing to be held prior to the public hearing on the Broadway Avenue rezoning issue. This motion was seconded by Councilman Skalski and carried unanimously.

City Attorney Slawter said that prior to any public hearing, City Council should keep an open mind as to the matters coming before the Council at that public hearing and take those matters that are brought up at that public hearing into consideration before making a final decision in the matter.

B. BOARD AND COMMISSION APPOINTMENTS

RESOLUTION NO. 96-148 - RESOLUTION APPOINTING A MEMBER TO THE ADA COMPLIANCE COMMITTEE

Steven Blanco has resigned as a member of the ADA Compliance Committee, leaving an unexpired term. This resolution will appoint Carole G. Williams to serve the unexpired term of Mr. Blanco. Her term will expire August 22, 1997, or until her successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 274

RESOLUTION NO. 96-149 - APPOINTING A MEMBER TO THE CIVIC CENTER COMMISSION

Barbara Halton has resigned as a member of the Civic Center Commission leaving an unexpired term. This resolution will appoint LaVerne Laney to fill the unexpired term of Ms. Halton. Her term will expire June 30, 1998, or until her successor has been appointed.

RESOLUTION BOOK NO. 23 - PAGE 275

RESOLUTION NO. 96-150 - RESOLUTION REAPPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

The term of Charles Worley expires on September 30, 1996. This resolution will reappoint Mr. Worley to serve a three year term, term to expire September 30, 1999, or until his successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 276

RESOLUTION NO. 96-151 - RESOLUTION REAPPOINTING A MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY

The term of J. Randolph Fluharty expires on August 30, 1996. This resolution will reappoint Mr. Fluharty to serve an additional three year term, term to expire August 30, 1999, or until his successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 277

RESOLUTION NO. 96-152 - RESOLUTION APPOINTING MEMBERS TO THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

The terms of Doug Franklin, Michael Keleher and James Lewis expired on July 19 of this year. This resolution will reappoint Michael Keleher and James Lewis and will appoint Stephanie Cooper to serve two year terms, respectfully. All terms will expire on July 19, 1998, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 278

RESOLUTION NO. 96-153 - RESOLUTION APPOINTING MEMBERS TO THE TREE/GREENWAY COMMISSION

The terms of Peter Loewer, Rick Crawford, Joey Moore and J. Lowell Orbison expired on August 1, 1996. This resolution will reappoint Peter Loewer and Joey Moore to each serve an additional three year term. This action will also appoint Ann Orr and Margaret Tinkler to each serve a three year term, respectfully. Dr. J. Lowell Orbison has agreed to be placed in an ex-officio capacity. All applicable terms will expire on July 1, 1999, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 279

Councilman Cloninger moved to adopt Resolution Nos. 96-148, 96-149, 96-150, 96-151, 96-152 and 96-153. This motion was seconded by Councilman Sellers and carried unanimously.

C. TELECOMMUNICATIONS TOWERS ORDINANCE AMENDMENT

Councilman Cloninger said that the Blue Ridge Parkway, Park Service, is requesting that communities pass an ordinance that telecommunications towers not be erected within one mile radius on the Blue Ridge Parkway. He asked that this issue be placed on next week's Council worksession agenda.

Ms. Julia Cogburn, Planning Director, said that she would contact them to see what their specific request is - whether it is from their right-of-way or from the actual road.

At 6:55 p.m., Councilman Worley moved to excuse Vice-Mayor Field from the meeting. This motion was seconded by Councilman Sellers and carried unanimously.

D. RESOLUTION NO. 96-154- RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH EAGLE/MARKET STREETS DEVELOPMENT CORPORATION TO FACILITATE REDEVELOPMENT OF SOUTH PACK SQUARE AREA

Councilman Hay moved to take the issues of the Eagle/Market Street Development Corporation ("EMSDC") off the table to be discussed. This motion was seconded by Councilman Worley and carried unanimously.

Ms. Cogburn clarified that that at the Housing & Community Development Committee ("Committee") meeting today, they did recommend some changes be made to the scope of services that Council had last week. There was an additional proposal that came in that the Committee saw for the first time today. They did want to make some additional changes, basically better reflecting the budget that has an emphasis on land acquisition and that in approving this resolution, that the changes to the scope of services are considered as a part of what Council will be adopting.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Hay moved for the adoption of Resolution No. 96-154, with the changes to the scope of services recommended by the Housing & Community Development Committee. This motion was seconded by Councilman Worley and carried on a 5-1 vote with Councilman Skalski voting "no".

RESOLUTION BOOK NO. 23 - PAGE 280

E. CLAIMS

The following claims were received by the City of Asheville during the week of July 19-25, 1996: Edward Hay (Finance), Ramiro Garcia (Streets), Gloria Shahan (Streets), Nancy Elgin (Sanitation), Scott Jenkins (Streets) and Angie T. McDonald (Water).

The following claims have been received during the week of August 2-8, 1996: Richard Conner (Streets), Best Western Central (Water), Jeff Link (Streets), Brian Johnson (Streets) and P.R. Standefer (Water).

The following claims have been received during the week of July 26-August 1, 1996: Grace Buchanan (Streets) and Stephen Doyle (Fire).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:59 p.m.

Magdalen Bowerson
CITY CLERK

MAYOR

Tuesday - August 20, 1996 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

BICENTENNIAL UPDATE

Mr. Richard Nantelle and Ms. Leni Sitnick, Co-Chairs of the Bicentennial Committee, updated City Council on the progress already made by the Bicentennial Committee and the progress they plan to make. They passed out a list of possible City events and a news release entitled "Asheville Prepares for Year Long Bicentennial Celebration."

Ms. Sitnick thanked City staff for their help with the Committee and spoke about the enthusiasm and excitement being generated. Their hope is for the kick-off celebration to be on First Night Asheville 1996. She presented council with a proposed Bicentennial budget for 1997-98, in the amount of $135,550, in which they hope the City will not have to expend any of the funds - they hope to generate the monies from sponsorships in the community. She did note, however, that the Bicentennial Marker and the Yes You Can Come Home Again Home Town Reunion might be projects that the Committee would ask for some City financial assistance with. A lot of the bicentennial ideas will be weaved into events and programs that are already in place, i.e., Bele Chere, Goombay Festival, Christmas parade, Quality Forward, Adopt-A-Street Program, etc. She asked for City Council's concurrence before the Committee starts going to the community for sponsorships.

There was some discussion about how the activities will be sanctioned and the City's liability in some of the activities.

Vice-Mayor Field suggested another name for the "Happy Birthday Asheville - We're Going To Clean You Up" Awareness Program." She didn't want to give the impression that our Public Works Department is not doing a good job.

Ms. Sitnick invited any and all of Council to attend the Bicentennial Committee meetings. The Committee would welcome their suggestions and input.

Upon inquiry of Councilman Worley, Ms. Sitnick said that even though the application deadline is October 1, the Committee wouldn't turn down any event application if they wanted to participate.

On behalf of City Council, Mayor Martin thanked Ms. Sitnick, Mr. Nantelle and the Bicentennial Committee for their hard work so far and strongly supported their efforts into making Asheville's Bicentennial an extra-ordinary event!

PRIVATIZING CONCESSIONS AT CIVIC CENTER

Mr. Jim Scott, Civic Center Director, said that in 1995 City Council designated the concessions at the Civic Center as a possible area for privatization. In September of 1995 staff requested an extension on the time to evaluate privatization due to the dramatic increase in concessions revenue in the 1994-95 fiscal year.

Examining the cost of sale for concessions for fiscal year 1995-96, concessions operated at 56.62% cost of sales. That is to say after paying all their costs of operation, concessions made $0.43 of profit for each dollar received. This would be the same as an outside private firm paying the Civic Center 43% of net sales.

This is very good given the facility size, industry standard would be 25% of net. Thus, the Civic Center is making over 18% more than it could expect to receive from privatization. Therefore, staff feels that this is significantly more profitable with the current arrangement as opposed to privatizing concessions.

Staff does not recommend privatizing the concessions operation at this time. Should margins change, it could again be considered. The Civic Center should be encouraged to continue to decrease its expenses and increase income.

City Council concurred with the staff recommendation to not privatize the concessions operation at this time.

MASSAGE THERAPY REGULATIONS AMENDMENT

Mr. Bill Schaefer, Finance Director, said that a request was received by the City to amend the massage therapy ordinance so as to allow an additional provision to satisfy the educational requirements and to reduce the age restrictions under the ordinance.

The City's massage therapy ordinance requires that an applicant satisfy certain educational requirements which include graduation from a massage therapy school which is licensed by the North Carolina State Board of Community Colleges with a minimum curriculum of 500 hours of classroom instruction; or graduation from a school or institute of massage therapy which offers a minimum curriculum of 500 hours of classroom instruction which is licensed by another state or equivalent licensing authority; or graduation from a school or institute of massage therapy which has been certified as a program approved by the American Massage Therapy Association on Massage Training Accreditation/Approval or National Testing Service. The amendment to the ordinance would allow staff to approve the educational requirements of the ordinance as long as the applicant can in the alternative show that they are certified by the National Certification Examination for Therapeutic Massage and Body Work. Such a certification may be obtained by an applicant sitting for a national certification examination with the applicant not necessarily having satisfied the minimum curriculum of 500 hours. However, the National Certification Examination is a very rigorous examination requiring certain minimum standards before an applicant is allowed to sit for the examination as well as certain minimum qualifications in terms of practical experience. Therefore, whenever an applicant is able to show a certificate of certification from the National Certification Examination for Therapeutic Massage and Body Work, there is an assumption that the applicant possess the requisite skill, knowledge and capability to perform the profession of massage therapy.

The items requested for consideration of reducing the age restrictions pertained to: (1) revise the age for individuals able to practice the massage therapy profession from 21 years to 18 years; and (2) revise the age for individual patrols from 21 years to 18 years without requiring adult supervision. Staff is unaware of any major complaints from those impacted by the age restrictions set forth in the current ordinance. Therefore, staff does not support any change to the age restrictions.

The Asheville Police Department and the Finance Department recommends adoption of the amended ordinance without changes to the age restriction.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

AMENDMENT TO THE TELECOMMUNICATIONS TOWERS ORDINANCE

Mr. Gerald Green, Senior Planner, said that at the Council meeting on August 13, 1996, City Council requested that staff contact the Blue Ridge Parkway offices concerning the regulations of telecommunications towers along the Parkway corridor within our jurisdiction. A request from Gary Everhardt, Parkway Superintendent, indicates that the Parkway does not ask for restrictions, but rather they request to be notified when permit applications come in within one mile of the road centerline.

Mr. Green said that the current ordinance prohibits towers within the residential districts and makes them a conditional use in all non-residential districts. He showed a map of the Parkway and where the one-mile radius lies. With a conditional use after an application has been made, a public hearing has to be held before the Board of Adjustment. There is a list of conditions which the tower must comply with, for example, height, spacing requirements, etc. In discussing this with Councilman Cloninger, City Manager Westbrook and Blue Ridge Parkway officials, it was felt that an additional condition attached to the current ordinance which would establish a requirement that the towers not detract from the viewshed of the Blue Ridge Parkway would be adequate to meet the Parkway's concern. The Parkway does not want to prohibit towers within a one mile radius of the road centerline on the Blue Ridge Parkway, but would evaluate them on a case by case basis for their impact on the view from the Parkway. The Parkway would be notified of all towers to be located within their viewshed and then would comment at the Board of Adjustment public hearing. Then, the Board of Adjustment would have the authority to set additional conditions or to deny the tower application based on its impact on the viewshed.

This additional condition would require an amendment to the Zoning Ordinance. Planning staff will work with the legal staff and the Parkway to come up with a new condition to meet their needs and that is legally correct. In the interim, Planning staff will start to notify the Parkway of any application received within their viewshed area, although the City does have a limited jurisdiction along the Parkway as shown by the map.

Mayor Martin suggested that once this amendment is adopted by Council that a copy be forwarded to Buncombe County.

Councilman Cloninger said that the reason why the Parkway officials are not asking for a blanket prohibition within a one mile of the road centerline is that there may be some locations along the Parkway within that one mile area that the tower would not be visible.

When Councilman Cloninger asked about having the City Council make the ultimate decision on the conditional use, rather than the Board of Adjustment, Mr. Green said that under the current Zoning Ordinance, all the conditional uses go to the Board of Adjustment. However, in the proposed Unified Development Ordinance, the authority to grant conditional uses will be given to the City Council. As currently proposed in the UDO there are only two conditional uses - the towers and

the Level III Project approval. With the adoption of the UDO, that authority would come to the City Council.

Councilman Cloninger said that since ultimately (when the UDO gets adopted) the conditional use decision will be made by City Council, that Council revise this proposed ordinance to require that the tower conditional uses be approved by the City Council, even prior to the adoption of the UDO.

Mr. Green said that he would have to check with the legal staff to assure that there is no problem with giving some conditional use approval authority to the Board of Adjustment and reserving one conditional use approval authority for the City Council.

There was some discussion about the City's extraterritorial jurisdiction in the Parkway's one mile radius.

Councilman Cloninger felt this was another excellent way for Asheville to show some leadership, as was shown with the Watershed Conservation Easement.

When Councilman Cloninger asked if our current telecommunications towers ordinance address television towers, Mr. Green responded that the ordinance does not. He said that they have not been a problem to date, however, that is something that staff will look at for future revisions.

Ms. Laura Rotegard and Mr. Gary Johnson, representatives from the Blue Ridge Parkway, thanked Council for their prompt response to their request for assistance.

Mr. Green advised City Council that City Council will need to direct the Planning & Zoning Commission to review this amendment to the Zoning Ordinance. It will come back to City Council with the Commission's recommendation at which time City Council will need to hold a public hearing on adoption of the ordinance.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

CONSENT:

Set Public Hearing for Section 9 Operating Assistance Grant Application

Summary: This will start the process for filing of an application with the Federal Transit Administration for the City of Asheville's annual transit operating assistance grant. This grant will assist in offsetting the operating cost of the Asheville Transit Authority. These funds will be used for operating the fixed route transit system and assists in funding the City's comparable paratransit program operated under "BOOST".

The Planning staff and the Asheville Transit Authority recommend setting a public hearing on September 10, 1996, and then approval of the resolution.

Mr. Ron Fuller, Transportation Planner, responded to some questions raised by Councilman Skalski regarding last year's application. Councilman Skalski then asked for a copy of last year's application.

Brevard Road Annexation Sewer Contract

Summary: The City Council previously approved a total of 3.2 million dollars for sewer improvements within the annexation area. This project is known as Brevard Road Area Annexation Sewer Improvements - Phase I. These funds were to be used for priority sewer improvements.

The Engineering Department has developed construction plans for the Brevard Road Area Annexation Sewer Improvements - Phase I. The engineer's estimate for this project is in the amount of $435,020.

The project was advertised for one month. On Tuesday, July 30, 1996, at 9:30 A.M., the Engineering Department received only two bids for the project. This required that the project be re-advertised to receive bids again on August 13, 1996. A tabulation of bids is attached. The construction time for this project is identified as 120 calendar days in the contract documents.

The low bid was received from Buckeye Construction Co. Inc., from Canton, N.C., in the amount of $477,752.50. The City has previously contracted with this company and feels they are a responsible contractor.

Staff recommends that City Council adopt a resolution awarding the bid for the Brevard Road Area Annexation Sewer Improvements - Phase I to Buckeye Construction Company Inc. of Canton, N.C., in the amount of $477,752.50.

West Area Annexation Sewer Contract

Summary: The City Council previously approved a total of 3.2 million dollars for sewer improvements within the annexation area. This project is known as West Area Annexation Sewer Improvements - Phase I Woodside Hills Section. These funds were to be used for priority sewer improvements.

The Engineering Department has developed construction plans for the West Area Annexation Sewer Improvements. The engineer's estimate for this project is in the amount of $632,306.75.

The project was advertised for one month. On Tuesday, July 30, 1996, at 9:00 A.M., the Engineering Department received two bids for the project. This required that the project be re-advertised and bids were received again on August 13, 1996. A tabulation of bids is attached. The construction time for this project is identified as 120 calendar days in the contract documents.

The lowest responsible bid was received from Buckeye Construction Co. Inc., from Canton, N.C., in the amount of $646,254. The City has previously contracted with this company and feels they are a responsible contractor.

Staff recommends that City Council adopt a resolution awarding the bid for the West Area Annexation Sewer Improvements - Phase I Woodside Hills Section to Buckeye Construction Company Inc. of Canton, N.C., in the amount of $646,254.

NORTH LOUISIANA AVENUE SEWER CONTRACT

Summary: The City Council previously approved a total of 3.2 million dollars for sewer improvements within the annexation area. This project is known as North Louisiana Avenue Sewer Improvements. These funds were to be used for priority sewer improvements.

The Engineering Department has developed construction plans for the North Louisiana Sewer Improvements. The engineer's estimate for this project is in the amount of $89,230.00. The North Carolina Department of Transportation has required that this work be done at night since construction is occurring within the roadway. Therefore, the project cost has significantly increased. Due to existing utilities outside the roadway, and limited right-of-way, the designed location in the roadway is necessary.

The project was advertised for one month. On Tuesday, July 2, 1996, at 10:00 A.M., the Engineering Department received only one bid for the project. This required that the project be re-advertised bids were received again on July 16, 1996. A tabulation of bids is attached. The construction time for this project is identified as 120 calendar days in the contract documents.

Buckeye Construction Company Inc. of Canton, N.C., is the lowest responsible bidder, with a bid in the amount of $190,200. The City has previously contracted with this company and feels they are a responsible contractor.

Staff recommends that City Council adopt a resolution awarding the bid for North Louisiana Avenue Sewer Improvements to Buckeye Construction Company Inc. of Canton, N.C., in the amount of $190,200.

Provisions for Possession and Consumption of Malt Beverages and/or Unfortified Wine at the Goombay Festival

Summary: G.S. 18B-300 (c) authorizes the City, by ordinance, to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on public streets, and on property owned, occupied or controlled by the City. The City Council has adopted an ordinance pursuant to that statutory authority. Section 11-11 of the Code provides that City Council may adopt a resolution making other provisions at special events or community festivals. This 1996 Goombay Festival Board, YMI Cultural Center and the Parks & Recreation Department recommend that possession and consumption of malt beverages and/or unfortified wine be allowed at the 1996 Goombay Festival within the designated festival area and during the times specified.

Intent to Close Elliot Street and a portion of Garfield Street

Summary: This resolution will set a public hearing on September 24, 1996, to permanently close Elliot Street and a portion of Garfield Street.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda at the next formal meeting.

BOARDS AND COMMISSIONS

It was the consensus of Council to take appropriate action at the next Council meeting to appoint Carol King to the Asheville Downtown Commission.

It was the consensus of Council to reappoint Jane Gianvito Mathews and Jim Torpey to the Planning & Zoning Commission.

Each member of Council then spoke about the excellent qualifications all four candidates had that they interviewed and it was a hard choice to vote on only one for the third vacancy on the Planning & Zoning Commission. It was understood that a vote in favor of a candidate did not mean a vote against another candidate.

Councilman Sellers moved to take appropriate action at the next Council meeting to appoint David Young to the Planning & Zoning Commission. This motion was seconded by Councilman Skalski. This motion failed on a 2-5 vote, with Mayor Martin, Vice-Mayor Field and Councilmen Hay, Cloninger and Worley voting "no".

Vice-Mayor Field then moved to take appropriate action at the next Council meeting to appoint Max Haner to the Planning & Zoning Commission. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Skalski voting "no".

When a statement was made concerning the number of registered voters in a particular area of the City, Vice-Mayor Field asked the City Manager to investigate that statement and report back to Council.

Vice-Mayor Field, Chairman of the Council Boards & Commissions Committee, reported on two actions taken by the Committee. One action is that there will be a deadline for people to get their applications in for consideration of the quarterly advertised vacancies. That does not mean that people who submit their applications after the deadline will not be considered for future appointments because vacancies occur for many reasons. The deadline will be six weeks from the date the first advertisement is placed in the newspaper. The deadlines will be noted in all advertisements in addition to City Council worksessions and their formal meetings.

The second matter agreed upon by the Committee was that after the worksession in which City Council makes their choices on who to interview for the vacancies, any additions or deletions to that pool will need to be approved by the Chairman of the Boards & Commissions Committee, which is Vice-Mayor Field.

Vice-Mayor Field noted that City Council does consider letters of recommendations from various groups.

Councilman Cloninger concurred with the recommendations of the Committee but at the same time felt that Council should able to be flexible in it's appointment process.

Councilman Hay, member of the Council's Boards & Commissions Committee, explained that the Committee is trying to make the appointment process predictable and orderly for the community. Even though this is only a policy, Council needs to commit to it.

It was the consensus of Council to adopt the recommendations of the Boards & Commissions Committee.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:15 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - August 27, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER, 1996, AS "SUBSTANCE ABUSE AWARENESS MONTH" IN THE CITY OF ASHEVILLE

Mayor Martin proclaimed September 1996 as "Substance Abuse Awareness Month" in the City of Asheville.

B. CONVEYANCE TO THE CITY FROM CAROLINA POWER & LIGHT COMPANY OF 6.156 ACRES IN HAW CREEK

Mayor Martin said that for some years the City has been interested in establishing a City park in the Haw Creek area. To that end we have been negotiating with various landowners in the area to acquire some property for a City park. We have recently concluded negotiations with CP&L to purchase property that they own in the area for a park. Once again CP&L has demonstrated what a fine corporate citizen of the City of Asheville they area. Over an extended period of time, many Council members and individuals from the community have worked together to identify appropriate land.

Mr. David Hester, representative of CP&L said that they were happy to help the City to locate a park that will showcase the natural beauty of the local environment. This is an example of the terrific partnership CP&L has with the City of Asheville - a partnership they hope will continue for many years to come.

Councilman Worley thanked Councilman Cloninger for taking a lead in this effort.

Since this is a purchase of real property, Councilman Cloninger moved to set a public hearing on September 10, 1996, relative to the purchase of 6.156 acres of land in Haw Creek from Carolina Power & Light Company. This motion was seconded by Councilman Skalski and carried unanimously.

Mr. Chris Pelly, President of the Haw Creek Community Association, expressed appreciation to City Council and CP&L.

II. PUBLIC HEARINGS:

A. CONTINUATION OF A PUBLIC HEARING RELATIVE TO REZONING TWO LOTS AT 401 OLD COUNTY HOME ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

Mayor Martin said that this public hearing was opened on January 9, 1996, and continued January 23, 1996, in order to give the other

interested persons an opportunity to speak and also to give the Planning staff an opportunity to look at the uniqueness of this area and perhaps bring Council a different solution to the problem. The public hearing was then continued until February 27, 1996, in order to give both parties involved an opportunity to see if a compromise of the problem could be reached. On February 27, 1996, the petitioner asked that the public hearing be continued for 6 months so that they could continue to search other means for compromise and also the UDO area plan hearing for the west part of the City will have been held and that may have an impact on this request.

Mr. Carl Ownbey, Urban Planner, said that this is a request to rezone PIN No. 9629-10-26-5131 and 9629-10-26-7219 from R-3 Medium Density Residential to CS Commercial Service. The subject property is approximately 7.25 acres. The lots are located on Old County Home Road just off its intersection with New Leicester Highway. The two lots have three residential structures. The 2010 Plan recommends that this area be medium density residential. The subject property is surrounded on the north and east by residential, on the south by commercial, and the west is out of our jurisdiction.

The Planning staff reviewed the rezoning request and recommended denial of the rezoning of both lots to CS Commercial Service. At the Planning & Zoning Commission's meeting on November 1, 1995, the Commission voted 4-3 to recommend approval of the rezoning of both lots to CS Commercial Service.

A valid protest petition has been filed.

Mayor Martin said that on August 26, 1996, he received a letter from Mr. Craig D. Justus, attorney representing Petitioner Nettie Briggs, which reads "Our firm represents Nettie Briggs in her application for rezoning of property located off New Leicester Highway and Old County Home Road. Her property is located within the one mile extra territorial jurisdiction of the City of Asheville. This matter came before City Council approximately 6 months ago and was tabled to allow City planning staff time to review the area during their UDO mapping of West Asheville. It is our understanding that city staff is considering a split zoning of the property with commercial in the front and a transitional zone in the back. This type of zoning would be acceptable to my client. The City staff will not be reviewing West Asheville until sometime in September. Accordingly, we respectfully request a continuance of Ms. Briggs rezoning application until such time as the City Planning Staff finishes its recommendations on mapping for the UDO for the New Leicester Highway area. Hopefully, the mapping will be completed within 2 months. We will coordinate with City Staff to reschedule this matter again before City Council. We appreciate your consideration of our continuance request."

Vice-Mayor Field said that, after talking with Mr. Jones Byrd, attorney for the petitioner, one of the reasons they asked for a continuance was in hopes that the UDO mapping would have been completed in that area so Council would have that information to work with. Because the mapping has not been completed yet, she didn't have a problem with continuing the public hearing until staff could complete their mapping in that area.

Ms. Julia Cogburn, Planning & Development Director, said that in terms of the staff recommendation for the potential zoning for that area, it could be ready within two months. However, she cautioned Council that it would be a very, very preliminary staff recommendation and was hesitant to have people relying on that in making a decision of

this nature. In addition to it being a preliminary recommendation, the mapping would not have gone to a public meeting. They have found that when staff's preliminary recommendations have gone to public meetings, there have been some changes as a result in working with the community. She suggested Council look at this issue on the face of it in the current situation.

Vice-Mayor Field said that Mr. Byrd felt that there might be something in the UDO mapping that would resolve the issue or they may want to withdraw the petition, so they at least wanted to wait until Planning staff did the mapping. He suggested continuing this matter for 90 days.

Upon inquiry of Councilman Hay, Vice-Mayor Field said that if City Council denies the rezoning request, the petitioner can't come back and ask for the same rezoning as the petition originally filed for one year. However, Ms. Cogburn noted that City Council has the authority to waive that one year stipulation if they felt there was a reason to consider it sooner than one year.

Mr. Craig Justus, attorney for the petitioner, said that Ms. Briggs has spent a lot of time, effort and money to go through the Planning & Zoning process and if Council denies the rezoning request, they would have to start all over again. He urged Council to continue the public hearing in order to give staff the opportunity to finish their preliminary zoning in the area. Their preliminary review would give them a chance to see if they want to withdraw their rezoning request or perhaps the mapping will allow a compromise solution.

Mr. Rick Wynne, area property owner, urged Council to not continue the public hearing again and hoped that Council would deny the rezoning request.

Mr. Steve Branstetter, area property owner, briefed Council on an incident he came up against with the zoning ordinance. He urged Council to be consistent in their judgments and deny this rezoning request.

Councilman Skalski moved to deny the rezoning request. This motion was seconded by Councilman Sellers.

Councilman Skalski felt that because the 2010 Plan was violated it's now causing problems in that area. He felt the people who actually live in that area should have a strong voice regarding the zoning.

Mr. Justus stressed that this is a commercial hub and it's not a typical black and white residential/commercial neighborhood. He urged Council to continue the public hearing 90 days so that staff can map the area.

Vice-Mayor Field said that if the petitioner withdraws the rezoning petition, they will not have to wait a year before it can be considered again.

Councilman Worley said that even if this request is denied, the UDO mapping will still take place and there will be an opportunity for the residents to give their input into what they want the area to be zoned.

Mr. Justus then withdrew the rezoning petition.

Because Mr. Justus withdrew the rezoning petition, Councilman Skalski withdrew his motion to deny the rezoning request.

B. CONTINUATION OF A PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING LOCATED AT 112 BROOKLYN ROAD

Mayor Martin said that this public hearing was opened on June 25, 1996, and continued until this date in order to give the property owner time within which to begin his repairs.

Ms. Natalie Berry, Housing Inspector, said that Mr. Ranson Rutherford has asked that this matter be continued for an additional six months. Ms. Berry reported that Mr. Rutherford has made considerable progress in repairing 112 Brooklyn Road and recommended to Council the six month continuance.

Vice-Mayor Field moved to continue the public hearing until February 18, 1997. This motion was seconded by Councilman Worley and carried unanimously.

C. PUBLIC HEARING TO REZONE 7 MOUNTAIN VIEW ROAD FROM R-2 LOW DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY

Mayor Martin opened the public hearing at 5:54 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that the subject property is one lot on Mountain View Road. Even though the property is currently being used for commercial purposes, rezoning of this one lot to commercial for expansion would be an intrusion into this small residential neighborhood. The access street is narrow and winding. There are three vacant lots that would have the potential for commercial zoning if this lot is changed. The subject property is surrounded on the north, east and west by residential and only on the south by commercial. This lot was part of the Haw Creek rezoning (from R-3 to R-2) that was approved in March of this year.

The Planning staff reviewed the rezoning request and recommended denial of rezoning PIN No. 9658.11.67.9070 from R-2 to CH. At the Planning & Zoning Commission meeting on July 3, 1996, the Commission voted unanimously to recommend denial of the rezoning request.

On July 25, 1996, the petitioner appealed the Commission's denial to City Council.

Mr. C.W. Morris, owner of 7 Mountain View Road, said that he doesn't plan to make any changes except to upgrade his office building and he can't get a permit to upgrade his building under the R-2 designation. He urged council to rezone his property so he can expand his office and continue to operate in that area.

Upon inquiry of Vice-Mayor Field, Mr. Ownbey said that the time Mr. Morris' lot was being considered to be rezoned from R-3 to R-2, Mr. Morris did come into the Planning Office and inquire about expanding his building which he could have done under the R-3 zoning. However, he did not continue with the project and his lots were rezoned to R-2, which does not allow the expansion of his building.

Vice-Mayor Field felt that commercial highway is totally inappropriate in terms of scale and size of property in that particular location. She wondered if there was any other solution for Mr. Morris' problem.

Mr. Morris stated that he was not adverse to something less if it will allow him to expand his office.

It was determined that if the lot were rezoned to R-3, it would be an illegal spot zoning.

Upon inquiry of Councilman Skalski about a transitional zone in the UDO, Ms. Cogburn said that there is not a transitional zone, but there is a transitional overlay district that would be applied to different areas. One of the things that Council would consider is a preliminary listing from staff as to areas they would see is appropriate. Basically what would then happen is that staff would look at each of those individual areas and create standards for that area that are applicable to the particulars of that area. She said that this could be a transition overlay district area, but she was not sure if there are other similar situations in this area. That is what the staff would be looking for in a transition district - a sort of pattern along a corridor or going back into an area where there seems to be sort of a pattern of transition. The preliminary mapping for this area does show that this would remain residential.

Mayor Martin closed the public hearing at 6:04 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Field moved to deny the rezoning request because commercial highway is completely inappropriate for this area. This motion was seconded by Councilman Worley and carried on 7-0 voice vote.

D. **PUBLIC HEARING TO REZONE ONE LOT ON MARTIN LUTHER KING JR. DRIVE FROM CG COMMERCIAL GENERAL TO R-3 MEDIUM DENSITY RESIDENTIAL**

ORDINANCE NO. 2310 - ORDINANCE REZONING ONE LOT ON MARTIN LUTHER KING JR. DRIVE FROM CG COMMERCIAL GENERAL TO R-3 MEDIUM DENSITY RESIDENTIAL

Mayor Martin opened the public hearing at 6:06 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that the property in question is a vacant lot totaling 2.13 acres. The property is owned by the City of Asheville. The lot is zoned CG in the early 1980's to conform to a redevelopment plan for the area which called for neighborhood business uses for the area. The redevelopment plan has since been closed and is no longer active. Area residents have expressed a strong desire that the property be rezoned back to R-3.

At the Planning & Zoning Commission meeting on August 7, 1996, the Commission unanimously voted to recommend approval of the rezoning request. The Planning staff also recommended approval of the rezoning.

Mayor Martin closed the public hearing at 6:08 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2310. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, Ordinance No. 2310 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 73

E. PUBLIC HEARING TO CONFIRM THAT THE BOARD OF ADJUSTMENT DOES NOT HAVE THE POWER TO GRANT A VARIANCE TO GUIDELINES ADOPTED OR USED BY THE HISTORIC RESOURCES COMMISSION OF ASHEVILLE AND BUNCOMBE COUNTY IN REVIEWING APPLICATIONS FOR CERTIFICATES OF APPROPRIATENESS

ORDINANCE NO. 2311 - ORDINANCE AMENDING THE CODE OF ORDINANCES TO CONFIRM THAT THE BOARD OF ADJUSTMENT DOES NOT HAVE THE POWER TO GRANT A VARIANCE TO GUIDELINES ADOPTED OR USED BY THE HISTORIC RESOURCES COMMISSION OF ASHEVILLE AND BUNCOMBE COUNTY IN REVIEWING APPLICATIONS FOR CERTIFICATES OF APPROPRIATENESS

Councilman Cloninger inquired about a potential conflict of interest since the law firm of which he is a partner in represents the Historic Resources Commission in a lawsuit involving the Board of Adjustment. He understands that this matter today would have no impact on the outcome of that lawsuit. City Attorney Slawter said that in his opinion, there was no conflict of interest.

Mayor Martin opened the public hearing at 6:09 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning Director, said that this ordinance was drafted at City Council's request to clarify the powers of the Board of Adjustment with respect to the granting of a variance to guidelines adopted or used by the Historic Resources Commission in reviewing applications for certificates of appropriateness. This amendment provides that while appeals may be taken to the Board of Adjustment from an Historic Resources Commission action in granting or denying a certificate of appropriateness, such an appeal shall be in the nature of certiorari. The Board shall not have the authority to vary any guidelines.

At the Planning & Zoning Commission meeting held on August 7, 1996, the Commission voted 6-1 to recommend approval of the amendment.

Mayor Martin closed the public hearing at 6:12 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2311. This motion was seconded by Councilman Skalski.

On a roll call vote of 7-0, Ordinance No. 2311 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 75

F. PUBLIC HEARING TO CONSIDER A ZONING VESTED RIGHTS ISSUE FOR OLIVER BUSINESS FORMS TO BE LOCATED ON BROADWAY AVENUE

Mayor Martin opened the public hearing at 6:12 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter explained what a statutory zoning vested rights issue enables a prospective developer to do. At any time during two years following the creation of the vested rights by Council, the developer can develop their property in accordance with what is referred to a site specific development plan.

Mr. Mike Matteson, Urban Planner, said that Oliver Business Forms is requesting zoning vested rights pursuant to Section 30-14-1 of the Zoning Ordinance for an office/retail building to be located on Broadway Avenue. The granting of a zoning vested right will extend the effective approval of the project from one year to two years.
The property is a vacant lot totaling 0.71 acres and located on the east side of Broadway between Hillside Street and North Street. The property is currently zoned CH Commercial Highway. The proposal is for an approximately 6,700 square foot building to be used by Oliver Business Forms (the company sells business forms to local companies). This use is permitted under the current zoning. The site plan meets all development standards within the district and a zoning permit has been issued for the project.

The applicant is hoping that the signage can be vested along with the plans. There is a little bit of signage on the building face itself and then there are two awnings on the first floor level with some small lettering.

The Planning & Development staff recommend approval of the zoning vested rights for the following reasons: (1) the applicant has acted in good faith towards obtaining approval for the project. Staff has been working with the project architect regarding this proposal since October 1995; (2) the proposed use is not contrary to the City's comprehensive plan which calls for office and institutional uses for the area; and (3) a great deal of effort has gone into designing the project to be as attractive and compatible as possible. This is evidenced by the building design, the landscape plan (on which the City's landscape architect was consulted) and the signage for the building.

By use of drawings, Mr. Con Dameron, architect representing Oliver Business Forms, explained in detail the traffic flow pattern, the facade of the building, the parking, and the landscaping for the project. He stressed that they have kept in scale much more restrictive than the zoning ordinance allows and tried to do a quality project. He pointed out on the drawing where the signage would be and asked that the signage be vested along with the plans.

When Vice-Mayor Field inquired about the number of parking spaces, Mr. Cameron said that they don't need that many initially, but the zoning ordinance requires that amount. It was noted that City Council could issue a variance for less parking. He showed where they could potentially make a landscape island and divide up the parking area with a little bit more plantings. They would be amenable to that.

Upon inquiry of Councilman Cloninger as to assurances that this is exactly what would be built on the site, City Attorney Slawter said that the statute and the ordinance authorizing the establishment of vested

rights provides that Council can make the approval on such terms and conditions as are reasonably necessary and also provide that the site plan, as approved, is to have stamped on it a statement that "this is the site specific development plan that has been approved." This plan presented today would have stamped on it that statement and that is what they have to build. If Council incorporates the elevations as well, the motion will need to refer to both of those plans. He suggested incorporating the letter dated August 27, 1996, to Mr. Mike Matteson from Con Dameron regarding signage be attached to the minutes. A copy of said letter is attached hereto as Exhibit "A".

Upon inquiry of Councilman Hay if Mr. Oliver decides not to build the project, City Attorney Slawter said that the statute and ordinance specifically provides that this vested right runs with the land. It terminates after two years if it is not developed within that two year period. He did state that this is the building that would have to be built by whoever the property owner is.

Ms. Margaret Muller said that if there has to be any office or commercial in that area, Mr. Oliver did the very best he could in terms of design and landscape. However, this area has two historic residential neighborhoods. She asked that Broadway be limited in its vehicular traffic and voiced concern if it became a thoroughfare for semi-tractor trailers.

Vice-Mayor Field wondered if Mr. Oliver would accept an change to the plan so as not to require as many parking spaces as the commercial highway requires so that there could be more landscaping on the property and make it more compatible with the greenway. Mr. Cameron then showed where more landscaping could occur if they were not required to have as many parking spaces.

Ms. Mary Jo Brezny hoped that this approval will not start a chain reaction of more development in a residential neighborhood along a highway.

Mr. Richard Oliver, petitioner, felt that they have put their plans together in good faith based on the present zoning and in accordance with the 2010 Plan and urged Council to grant his vested right. He explained how his business was neighborhood friendly and hoped Council would look favorably on his request.

Mr. Craig Justus, attorney representing Mr. Oliver, said that Oliver Business Forms is the operator of the facility. The owners of the property and the vested rights would go Richard and Timmie Oliver as provided for on the plans. He said that considerable effort has been made to try to fit into the area and felt that this attractive business can provide a nice entranceway into Asheville.

Ms. Valeria Larrea expressed her concern of any kind of intrusion into two residential neighborhoods that abut this thoroughfare in terms of bringing large commercial vehicles and larger numbers of small commercial vehicles and the noise and pollution they create.

Ms. Louise Schaefer, resident on Hillside, asked that if Council grants this vested right to Mr. Oliver that Council put the same restrictions on any other requests that come in.

Ms. Jane Mathews said that the 2010 Plan has significantly changed since it was adopted and some long range planning should happen along this thoroughfare as we move forward.

Mayor Martin closed the public hearing at 6:53 p.m.

Councilman Cloninger moved to grant the zoning vested right on this property contingent upon all construction work being performed pursuant to the plans, specifications and letter submitted today by the owner. This motion was seconded by Councilman Worley and carried on a 5-2 vote with Councilmen Hay and Skalski voting "no".

Councilman Hay appreciated the work done on the building, in particular the scale and the tie-in to downtown. However, he felt that when the R-3 district process was stated, it was to put a delay on new construction on Broadway while we did some long term planning. The long term planning may well include the kind of new construction along Broadway on the east side that this represents. However, he would still like to see that delay in place until we take a look at what's going to happen down the road.

G. **PUBLIC HEARING TO REZONE 25 LOTS IN THE BROADWAY AVENUE AREA AND A PORTION OF THREE LOTS IN THE BROADWAY AVENUE AREA FROM CH COMMERCIAL HIGHWAY TO R-3 MEDIUM DENSITY RESIDENTIAL**

ORDINANCE NO. 2312 - ORDINANCE REZONING 15 LOTS ON BROADWAY AVENUE, EAST CHESTNUT STREET AND MAGNOLIA STREET FROM CH COMMERCIAL HIGHWAY TO R-3 MEDIUM DENSITY RESIDENTIAL

ORDINANCE NO. 2313 - ORDINANCE REZONING ALL OR A PORTION OF 13 LOTS ON BROADWAY AVENUE, HILLSIDE STREET, NORTH STREET AND WEST STREET FROM CH COMMERCIAL HIGHWAY TO R-3 MEDIUM DENSITY RESIDENTIAL

Mayor Martin opened the public hearing at 6:55 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Director, said that City Council requested the Planning & Zoning Commission review the rezoning of 25 lots and a portion of 3 lots in the Broadway Avenue area to be rezoned from CH Commercial Highway to R-3 Medium Density Residential.

At the Planning & Zoning Commission meeting on August 7, 1996, the Commission voted 4-3 to recommend to City Council that the rezoning request be denied.

On August 13, 1996, City Council authorized the Mayor to send a letter to the City Clerk for it to be filed as their written notice of the intent of the City Council to "appeal" the decision of the Planning & Zoning Commission by scheduling a public hearing before the City Council on this rezoning. On that same date, the City Council scheduled a public hearing on this matter for August 27, 1996.

For the purpose of this meeting, the two pockets of rezoning will be discussed separately because on August 22, 1996, a valid protest petition was filed on the rezoning of all or a portion of 13 lots in the Broadway Avenue area.

Mr. Matteson said that regarding the rezoning of 13 lots on Broadway Avenue, Hillside Street, North Street and West Street, City Council City Council initiated this rezoning study as a result of potential development pressures associated with the widening of Broadway. The area in question totals approximately 4.5 acres. Three of the lots are used residentially, one is used commercially and the

remaining lots are vacant. The zoning of the surrounding properties is R-3. The 2010 Plan calls for parks/open space on the west side of Broadway and Office and Institutional uses on the east side.

Staff has received several comments in support of the rezoning as well as several comments expressing opposition.

The Planning & Development staff recommend approval of the proposed rezoning for the following reasons: (1) some of the uses permitted in the CH Commercial Highway District may be incompatible with the surrounding area and may not be in the best interest of the City as a whole; (2) the rezoning will likely be temporary in nature thus giving staff an opportunity to look at the area comprehensively in terms of land use and zoning; and (3) the land uses in and adjacent to the area are predominantly residential.

Once again Mr. Matteson noted that a valid protest petition has been filed regarding the rezoning of all or a portion of the 13 lots in the Broadway Avenue area.

Mr. Matteson said that regarding the rezoning of 15 lots on Broadway Avenue, East Chestnut Street and Magnolia Street, City Council initiated this rezoning study as a result of potential development pressures associated with the widening of Broadway. The 15 lots total approximately 2.28 acres. Three of the lots are used residentially, one is used commercially and the remaining lots are vacant. The surrounding zoning is R-3 to the north and west, R-4 to the south and CS to the southeast.

Staff has received several comments in support of the rezoning as well as several comments expressing opposition.

The Planning & Development staff recommend approval of the proposed rezoning for the following reasons: (1) some of the uses permitted in the CH Commercial Highway District may be incompatible with the surrounding area and may not be in the best interest of the City as a whole; (2) the 2010 Plan calls for parks/open space on the west side of Broadway and low density residential land uses west of the corridor. R-3 zoning would better allow the recommended land uses to occur; and (3) the land uses in and adjacent to the area are predominantly residential.

Upon inquiry of Ms. Margaret Muller, area resident, Mr. Matteson showed which lots, and who the owners are, that made up the valid protest petition. He then stated that since a valid protest petition has been filed, it would invoke the 3/4's vote requirement of City Council.

Mayor Martin stated that City Council wanted to maintain control of building in that area. He said Council does not want things built that won't ultimately fit in the long term planning effort. The way to do that is to rezone it to R-3 and when the Unified Development Ordinance is adopted, the uses will be delineated on a long term basis.

Councilman Worley agreed with Mayor Martin and said that under our current zoning ordinance, the zoning classifications do not give Council enough tools to properly deal with this area and that's the reason why Council wants to rezone this to R-3 as a temporary measure. He felt that under the UDO, Council will have better tools to work with in terms of dealing with this area.

Ms. Barbara Hodgson, 107 Evelyn Place, thanked Council for their vision.

Mr. Dennis Hodgson, 107 Evelyn Place, thanked Council for their farsightedness.

Mr. Jim Bailey, attorney representing Mr. D.A. Lackey who has a business in this area that he and his family has operated for over 50 years, said he really didn't think that rezoning the lots temporarily residential were necessary. If it is temporarily rezoned, Mr. Lackey would be at risk if his business is destroyed because he can't rebuilt it - he would be a nonconforming use. The rezoning will devalue his property temporarily because he won't be able to make any changes or improvements to it. He didn't see any need to rush into rezoning since most of the property is owned by the N.C. Dept. of Transportation. He suggested waiting until the UDO mapping is completed. He suggested Council temporarily rezone the lots to Commercial General, instead of R-3 residential.

Upon inquiry of Councilman Skalski, Mr. Bailey said that Mr. Lackey's land totals less than one acre. He explained that the property is owned by two people and a substantial portion of it is under lease to Mr. Lackey, but owned by Mr. Dewey Beauchamp.

Mr. Katheryn Morris, Falconhurst Residents Association, said that since they have seen significant development and erosion of neighborhoods they supported greenway development in the Broadway area.

Mr. Dennis Campbell, President of the Falconhurst Residents Association, stated that they have a strong interest in the preservation of greenspace and the improvement of the quality of life in Asheville. He supported the rezoning and the establishment of a greenway along Broadway along with long-term planning for this corridor.

Ms. Margaret Muller, area resident, asked for a more restrictive zoning than R-3. She felt that everything should be put on hold until there is a real concerted effort to look at the two historic neighborhoods that border that area and to look at the wider picture in terms of comprehensive planning. She also suggested the City buy or ask the N.C. Dept. of Transportation to donate all the other possible green space that they own. She also supported the idea of revisiting the 2010 Plan.

Ms. Betty Lawrence, 142 Hillside Street, supported the rezoning and stressed that we must preserve the neighborhoods that we have.

There was some discussion about the money budgeted and needed for a greenway, noting that the Broadway greenway project is an active project.

A man from the audience thanked Council for their support to rezone in this area and also suggested the City ask the N.C. Dept. of Transportation for any lands left over from the widening project.

Mayor Martin closed the public hearing at 7:25 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance to rezone 15 lots in the Broadway Avenue Area and it would not be read.

Councilman Hay moved for the adoption of Ordinance No. 2312. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, Ordinance No. 2312 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 77

Mayor Martin said that members of Council have previously received a copy of the ordinance to rezone all or a portion of 13 lots in the Broadway Avenue Area and it would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2313. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2313 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 79

At this time, 7:30 p.m., Mayor Martin announced a ten minute break.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 96-155 - RESOLUTION APPROVING THE FILING OF THE APPLICATION FOR THE ISSUANCE OF WATER REVENUE BONDS

Finance Director Bill Schaefer said that approval of the Local Government Commission ("LGC") is required in order for the City of Asheville to issue Water System Revenue Bonds to finance additions and improvements to the water system; including the Mills River Water Treatment Plan, associated raw water storage facilities, pump stations, transmission mains and additional pipelines.

Financing of the project will require the issue of $33,000,000 Water System Revenue Bonds, and equity contribution from existing Water Department funds of $4,200,000 and $3,000,000 from a previously-approved state loan.

This resolution, drafted by the City's bond counsel, provides the following: (1) states the purpose of the proceeds from the bonds (finance cost of the project, pay interest during construction, fund a debt service reserve fund and pay cost of issuance) and that the project is "necessary" to meet current and future needs of the water system; (2) sets aside $4,200,000 existing Water Resources Department funds in the Water Major Capital Improvements Fund for use in the project; (3) confirms retention of Parker, Poe, Adams & Bernstein as bond counsel; Robinson-Humphrey Co., Alex Brown & Sons, and NationsBanc Capital Markets as underwriters (Robinson-Humphrey will serve as senior manager); Raftelis Environmental Consulting Group as feasibility consultant; and approves Hunton & Williams as underwriters' counsel; (4) authorizes the Finance Director to file the application with LGC; (5) requests favorable consideration of the application by the LGC; (6) authorizes the Mayor, City Manager and Finance Director to do any and all things necessary to issue the bonds; and (7) requests the LGC sell the bonds through negotiation with the underwriters at a true interest cost not exceeding 7.00%.

The Finance Department recommends approval of the resolution.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-155. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 281

V. CONSENT:

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 13, 1996, AND THE WORKSESSION HELD ON AUGUST 20, 1996

B. RESOLUTION NO. 96-156 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: Bonnie Hobbs has resigned as a member of the Asheville Downtown Commission leaving an unexpired term. This resolution will appoint Carol King to fill the unexpired term of Ms. Hobbs, term to expire December 31, 1997, or until her successor has been appointed.

RESOLUTION BOOK NO. 23 - PAGE 284

C. RESOLUTION NO. 96-157 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING & ZONING COMMISSION

Summary: The terms of Jim Torpey, Jane Gianvito Mathews and Harriette Winner expired on August 14, 1996. This resolution will reappoint Jim Torpey and Jane Gianvito Mathews to each serve an additional three year term. This action will also appoint Max Haner to serve a three year term. All terms will expire on August 14, 1999, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 285

D. MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 10, 1996, RELATIVE TO THE CITY OF ASHEVILLE'S ANNUAL TRANSIT OPERATING ASSISTANCE GRANT

E. RESOLUTION NO. 96-158 - RESOLUTION AWARDING THE BID TO BUCKEYE CONSTRUCTION COMPANY INC. FOR THE PROJECT KNOWN AS BREVARD ROAD AREA ANNEXATION SEWER IMPROVEMENTS - PHASE I PROJECT

Summary: The City Council previously approved a total of 3.2 million dollars for sewer improvements within the annexation area. This project is known as Brevard Road Area Annexation Sewer Improvements - Phase I. These funds were to be used for priority sewer improvements.

The Engineering Department has developed construction plans for the Brevard Road Area Annexation Sewer Improvements - Phase I. The engineer's estimate for this project is in the amount of $435,020.

The project was advertised for one month. On Tuesday, July 30, 1996, at 9:30 A.M., the Engineering Department received only two bids for the project. This required that the project be re-advertised to

receive bids again on August 13, 1996. The construction time for this project is identified as 120 calendar days in the contract documents.

The low bid was received from Buckeye Construction Co. Inc., from Canton, N.C., in the amount of $477,752.50. The City has previously contracted with this company and feels they are a responsible contractor.

Staff recommends that City Council adopt a resolution awarding the bid for the Brevard Road Area Annexation Sewer Improvements - Phase I to Buckeye Construction Company Inc. of Canton, N.C., in the amount of $477,752.50.

RESOLUTION BOOK NO. 23 - PAGE 286

F. RESOLUTION NO. 96-159 - RESOLUTION AWARDING THE BID TO BUCKEYE CONSTRUCTION COMPANY INC. FOR THE PROJECT KNOWN AS WEST AREA ANNEXATION SEWER IMPROVEMENTS - PHASE I/WOODSIDE HILLS SECTION

Summary: The City Council previously approved a total of 3.2 million dollars for sewer improvements within the annexation area. This project is known as West Area Annexation Sewer Improvements - Phase I Woodside Hills Section. These funds were to be used for priority sewer improvements.

The Engineering Department has developed construction plans for the West Area Annexation Sewer Improvements. The engineer's estimate for this project is in the amount of $632,306.75.

The project was advertised for one month. On Tuesday, July 30, 1996, at 9:00 A.M., the Engineering Department received two bids for the project. This required that the project be re-advertised and bids were received again on August 13, 1996. The construction time for this project is identified as 120 calendar days in the contract documents.

The lowest responsible bid was received from Buckeye Construction Co. Inc., from Canton, N.C., in the amount of $646,254. The City has previously contracted with this company and feels they are a responsible contractor.

Staff recommends that City Council adopt a resolution awarding the bid for the West Area Annexation Sewer Improvements - Phase I Woodside Hills Section to Buckeye Construction Company Inc. of Canton, N.C., in the amount of $646,254.

RESOLUTION BOOK NO. 23 - PAGE 287

G. RESOLUTION NO. 96-160 - RESOLUTION AWARDING THE BID TO BUCKEYE CONSTRUCTION COMPANY INC. FOR THE PROJECT KNOWN AS NORTH LOUISIANA AVENUE SEWER IMPROVEMENTS PROJECT

Summary: The City Council previously approved a total of 3.2 million dollars for sewer improvements within the annexation area. This project is known as North Louisiana Avenue Sewer Improvements. These funds were to be used for priority sewer improvements.

The Engineering Department has developed construction plans for the North Louisiana Sewer Improvements. The engineer's estimate for this project is in the amount of $89,230.00. The North Carolina Department of Transportation has required that this work be done at night since construction is occurring within the roadway. Therefore, the project

cost has significantly increased. Due to existing utilities outside the roadway, and limited right-of-way, the designed location in the roadway is necessary.

The project was advertised for one month. On Tuesday, July 2, 1996, at 10:00 A.M., the Engineering Department received only one bid for the project. This required that the project be re-advertised bids were received again on July 16, 1996. The construction time for this project is identified as 120 calendar days in the contract documents.

Buckeye Construction Company Inc. of Canton, N.C., is the lowest responsible bidder, with a bid in the amount of $190,200. The City has previously contracted with this company and feels they are a responsible contractor.

Staff recommends that City Council adopt a resolution awarding the bid for North Louisiana Avenue Sewer Improvements to Buckeye Construction Company Inc. of Canton, N.C., in the amount of $190,200.

RESOLUTION BOOK NO. 23 - PAGE 288

H. RESOLUTION NO. 96-161 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 1996 GOOMBAY FESTIVAL

Summary: G.S. 18B-300 (c) authorizes the City, by ordinance, to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on public streets, and on property owned, occupied or controlled by the City. The City Council has adopted an ordinance pursuant to that statutory authority. Section 11-11 of the Code provides that City Council may adopt a resolution making other provisions at special events or community festivals. This 1996 Goombay Festival Board, YMI Cultural Center and the Parks & Recreation Department recommend that possession and consumption of malt beverages and/or unfortified wine be allowed at the 1996 Goombay Festival within the designated festival area and during the times specified.

RESOLUTION BOOK NO. 23 - PAGE 289

I. RESOLUTION NO. 96-162 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE ELLIOT STREET AND A PORTION OF GARFIELD STREET AND SETTING A PUBLIC HEARING FOR SEPTEMBER 24, 1996

RESOLUTION BOOK NO. 23 - PAGE 291

J. MOTION DIRECTING THE PLANNING & ZONING COMMISSION TO CONSIDER AN AMENDMENT TO THE ZONING ORDINANCE RELATIVE TO TELECOMMUNICATIONS TOWERS

Summary: City Council has expressed an interest in having staff and the Planning & Zoning Commission look at amendments to the Zoning Ordinance relative to the location of telecommunications towers within one mile of the Blue Ridge Parkway.

At the City Council worksession on August 20, 1996, City Council requested that staff draft amendments to the Zoning Ordinance relative to the location of telecommunications towers within one mile of the Blue Ridge Parkway. Council's action was in response to a request from the Parkway Superintendent that the City notify Parkway officials when a telecommunications tower is proposed within one mile of the Parkway. The City Council has asked staff to draft an amendment which would allow

for denial of a permit application for any telecommunications tower proposed which would have a negative impact on the Blue Ridge Parkway viewshed. Additionally, Council has asked staff, if possible, to draft the amendment so that all telecommunications tower permits must be reviewed and approved by Council rather than the Board of Adjustment.

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Cloninger and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2314 - ORDINANCE AMENDING ARTICLE III OF CHAPTER 9 (MASSAGE THERAPY REGULATIONS) OF THE CODE OF ORDINANCES

Summary: A request was received by the City to amend the massage therapy ordinance so as to allow an additional provision to satisfy the educational requirements and to reduce the age restrictions under the ordinance.

The City's massage therapy ordinance requires that an applicant satisfy certain educational requirements which include graduation from a massage therapy school which is licensed by the North Carolina State Board of Community Colleges with a minimum curriculum of 500 hours of classroom instruction; or graduation from a school or institute of massage therapy which offers a minimum curriculum of 500 hours of classroom instruction which is licensed by another state or equivalent licensing authority; or graduation from a school or institute of massage therapy which has been certified as a program approved by the American Massage Therapy Association on Massage Training Accreditation/Approval or National Testing Service. The amendment to the ordinance would allow staff to approve the educational requirements of the ordinance as long as the applicant can in the alternative show that they are certified by the National Certification Examination for Therapeutic Massage and Body Work. Such a certification may be obtained by an applicant sitting for a national certification examination with the applicant not necessarily having satisfied the minimum curriculum of 500 hours. However, the National Certification Examination is a very rigorous examination requiring certain minimum standards before an applicant is allowed to sit for the examination as well as certain minimum qualifications in terms of practical experience. Therefore, whenever an applicant is able to show a certificate of certification from the National Certification Examination for Therapeutic Massage and Body Work, there is an assumption that the applicant possess the requisite skill, knowledge and capability to perform the profession of massage therapy.

The items requested for consideration of reducing the age restrictions pertained to: (1) revise the age for individuals able to practice the massage therapy profession from 21 years to 18 years; and (2) revise the age for individual patrols from 21 years to 18 years without requiring adult supervision. Staff is unaware of any major complaints from those impacted by the age restrictions set forth in the current ordinance. Therefore, staff does not support any change to the age restrictions.

The Asheville Police Department and the Finance Department recommends adoption of the amended ordinance without changes to the age restriction.

ORDINANCE BOOK NO. 16 - PAGE 81

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance on the Ordinance Consent Agenda and it will not be read.

Councilman Cloninger moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and only reading.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 96-163 - RESOLUTION PRESCRIBING POLICY REGARDING SETTLEMENT OF WORKERS' COMPENSATION CLAIMS

City Attorney Slawter said that the Rules of Procedure for the Asheville City Council formerly included a provision regarding authorization for settlement of claims against the City. The current Rules of Procedure do not include such a provision. The settlement of claims against the City is governed by Resolution No. 93-145.

The policy reads that (1) the Risk Manager shall have the authority, upon the written approval from the City Manager and the City Attorney, to authorize settlement of claims against the City pertaining to workers' compensation; (2) the Risk Manager shall have the authority, upon the written approval from the City Manager and the City Attorney, to authorize settlements of subrogation claims on behalf of the City of Asheville arising against third parties responsible for liability incurred by the City under the Workers' Compensation Act; and (3) all such settlements shall be reported to the City Council in a timely fashion.

Mayor Martin said members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-163. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 292

B. COMMENTS FROM H.K. EDGERTON REGARDING PLANNING & ZONING COMMISSION APPOINTMENT

Mr. H.K. Edgerton, President of the Asheville Branch of the NAACP, voiced concern that Max Haner, not Marcell Proctor, was appointed to the Planning & Zoning Commission. He said, among other things, that he has "sat through much dialog that contends that African Americans don't participate, but when we do; we are confronted by the same kind of bigoted, unsensitive thought process that was put into this appointment." Mr. Edgerton thought that Mr. Proctor should have been Council's appointment because of his involvement in the community - he is a member of CIBO, a member of the Chamber of Commerce, sits on the Board of Directors of the Executive Committee of the NAACP, and he is the owner and operator of the Mountain Smokehouse.

Mayor Martin objected to the allegations made by Mr. Edgerton. He stated that City Council does want African Americans to be involved in the process because we need a lot of participation by a lot of people. He said that there was nothing insensitive about that appointment process. Council fairly interviewed all applicants and each applicant was asked essentially the same questions. Because Council appointed someone other than who Mr. Edgerton wanted, does not mean they were insensitive.

Vice-Mayor Field explained that any questions she asked were purely for informational purposes and stated that City Council specifically said that a vote for someone did not mean a vote against someone else.

Mr. Edgerton presented a copy of the CIBO news letter in which he felt justified his comments.

Mr. Mike Plemmons, Executive Director of CIBO, said that CIBO did not intend to imply racism remarks.

C. CLAIMS

The following claims were received by the City of Asheville during the week of August 9-15, 1996: Jill Campbell (Parks & Recreation), Susan VanDerVorst (Traffic Engineering), Linda Crowe (Parks & Recreation), Buddy Patton (Water), Judy Riddle (Water) and Brad Plemmons (Water).

The following claims were received during the week of August 16-22, 1996: Judy Carver (Water), BellSouth (Water), Mrs. Charles Smith (Streets), Molly Sandridge (Water) and Cimmeron (Water).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

D. LAWSUIT

The following lawsuit was received on August 20, 1996, which is generally described as follows: Brian Breedlove v. City of Asheville, et al. The nature of the proceeding is negligence, inadequate warning (Bele Chere).

This action has been referred to Fred Barbour to handle through the Asheville Claims Corporation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:05 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

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EXHIBIT "A"

August 27, 1996

Mr. Mike Matteson
Asheville Planning Department
P.O. Box 7148
Asheville, NC 28802

Dear Mike,

We have developed an initial approach to signage for the Oliver Business Forms project on Broadway which will be understated and significantly smaller than allowed in the sign ordinance. First, we are proposing raised letter signage attached to the building face near the cornice line. This sign will be 12" letters by a maximum of 12 feet in length. The sign will be underscored by 3-4" letters indicating (since 1965), the total area of this primary building mounted sign will be 14 sf. In addition to this sign we would like to apply 3-4" high tides to two awning drapes on the building. These letters (Oliver Business Forms) will not be longer than 6 feet in length and therefore the two awning signs not greater than 5 sf. combined area. The enclosed elevation indicates the nature of these signs and will be sufficient for this project.

Please note that the owners for the project are Richard G. Oliver and Timmie Oliver. The tenant will be Oliver Business Forms, Mr. Oliver is President of Oliver Business Forms.

Wishing you continued success.

Con Dameron, AIA

The Architectural Practice
planning architecture interiors graphics

Broun Conway Dameron, Jr. AIA

Historic Adaptation
Residential Design
Site Analysis
Long Range Planning
Mountain Sites
Commercial Design
Office Planning
Coastal Architecture

American Institute of Architects
National Council of Architectural Registration Boards
Virginia 4774
North Carolina 4528

Suite 202
One North Pack Square
Asheville, North Carolina 28801
704.258.9118 fax.704.255.1142

Tuesday - September 3, 1996 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT AGENDA

It was the consensus of Council to place the Consent Agenda at the beginning of Council worksessions and immediately following the Proclamation Section at formal meetings.

CONSENT AGENDA:

Report on Disposal of City-Owned Personal Property

Summary: Resolution No. 85-99 adopted on June 25, 1985, established procedures for disposing of personal property valued at less than $500. Pursuant to these procedures, the attached resolution identifies property disposals for the Fleet Management Division and the Water Resources Department during the period of January 1, 1996, through June 30, 1996.

Public Auction

Summary: This resolution authorizes the City's Purchasing Division to hold a public auction to dispose of motor vehicles, transit coaches, off-road equipment, and other miscellaneous property declared surplus by various City departments. The auction to be held Saturday, October 19, 1996, at 10:00 a.m. in the Public Works Complex at 161 S. Charlotte Street.

Mr. G. Carroll Hughes, Chairman of the San Cristobal School Bus Committee, read a letter to City Council requesting, on behalf of Asheville Sister Cities, that two buses in the best condition be reserved for donation to the Town of San Cristobal, State of Chiapas, Mexico, and to include all available parts and service the vehicles for long distance driving. They will plan to load one bus with school supplies for the local children at several schools and load the other bus with badly needed medical supplies for use by the Mexican Red Cross.

On the Sister Cities recent trip to San Cristobal, they learned first hand of the needs of the community. They want to respond as they can and to donate two of the best running buses to this cause will help firmly establish our city-to-city ties as well as help 1,100 school children, who have no access to transportation, attend school.

City Attorney Slawter said that, although he did not have the appropriate statutes in hand, he did not think there would be a problem with the City donating the buses to another governmental body. However, he did state that he would confirm to Council their authority to do that before any formal action would be taken at the next Council meeting.

City Manager Westbrook said that there might only be one bus that is in running condition and it may need to have minor repairs. He was not sure what condition the other bus would be in.

Mr. Hughes said that they would like to have two buses so they can have the parts. Sister Cities will take on the responsibility of getting the buses to San Cristobal, even if they have to tow them.

Mr. Carl Ownbey, Transportation Planner, said that he has reviewed the list and the two buses he would recommend will each take about $1,000 to get them running.

Upon inquiry of Councilman Hay, Mr. Norwood Dunn, Purchasing Director, said that if they were sold at public auction, each bus might raise $500-$1,000.

Upon inquiry of Mr. H.K. Edgerton about having a bus or van donated to the NAACP to transport children to and from athletic events and recreation centers, Mayor Martin suggested Mr. Edgerton make his request in writing to the City Manager.

City Manager Westbrook noted that the two buses being requested to be donated to Sister Cities are in the best condition and it would take approximately $5-6,000 to get any others in running condition.

If there are no legal restrictions, Vice-Mayor Field moved to proceed with appropriate action at the next formal meeting to delete from the City's auction two of the best running buses (and available parts) to be donated to the Town of San Cristobal, State of Chiapas, Mexico. This motion was seconded by Councilman Sellers and carried unanimously.

Motion to Set Public Hearing to Designate the Stephens-Lee Community Center as a Local Historic Landmark

Summary: A public hearing is necessary to adopt an ordinance designating the Stephens-Lee Gymnasium and the site of the former high school as a local historic landmark. This action will be to set a public hearing for September 24, 1996.

Councilman Sellers asked if the City designated this Center as historic property, would it cost more to renovate. Mr. Irby Brinson, Director of Parks & Recreation, responded that based on his conversations with the architect, the price will not be any higher, in fact, the designation will help them secure grants.

Amendment to the South Pack Square Redevelopment Plan

Summary: The South Pack Square Redevelopment Plan was adopted by City Council on June 15, 1993. Technical changes are needed to include reference to the Eagle/Market Streets Development Corporation ("EMSDC") instead of the YMI CDC. The amended plan will also include reference to the City of Asheville instead of the Housing Authority as Redevelopment Commission. Formation of the EMSDC is included in the section on "History".

The Community Development staff recommends adoption of the resolution amending the plan.

Outdoor Dining Areas/Alcohol Regulation

Summary: Consideration of a revision of Section 11-11 of the Code of Ordinances to amend subsection (f) which will allow outdoor dining permits during community events and festivals.

The new subsection (f) of the revised Section 11-11 of the Code still provides that the City permits for outdoor dining areas, but will be temporarily suspended at locations designated for community events and festivals which was permitted under section 16-97 of the Code. As you recall, Ordinance No. 2303 amended subsection 16-143(b) to delete the provision that outdoor dining permits were temporarily suspended for community events and festivals. When that amendment occurred, it was also necessary to amend subsection (f) of Section 11-11 of the Code. In order to clarify this issue, the Parks and Recreation Department wishes to amend Section 11-11 by deleting it in its entirety and substituting a new Section 11-11 which removes that language from subsection (f).

Parks and Recreation Department, along with Planning, Police and Legal recommend that Section 11-11 be deleted and substituted with the new Section 11-11 which will allow outdoor dining permits during festivals and community events.

HUD Homeownership Zone Funding Application

Summary: City Council will consider approving the submittal of an application to HUD for funding through the HUD Economic Development Initiative (EDI) program to increase homeownership opportunities in a target area to be designated as a homeownership zone. The target area will include the West End/Clingman Avenue neighborhood under Phase I and be expanded to surrounding neighborhoods such as West Asheville's WACT 10 area for the second phase. The goal will be to create at least 300 new single family homes as a result of the project.

The City will also be applying for other funding through the HUD Section 108 loan program to augment the EDI funds within the next 60 days. Separate Council action will be needed to authorize the Section 108 loan application at a later date.

Pisgah Legal Services will be responsible for preparing the EDI funding application and coordination with the private sector to leverage additional funding.

Deadline for submittal of the application is September 16, 1996. The Housing & Community Development Committee will discuss the project on September 10, prior to full Council action.

The Community Development staff recommend approval of submitting the funding application.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda at the next formal meeting.

RESOLUTION FROM ASHEVILLE DOWNTOWN COMMISSION REGARDING PARKING STUDY

Mr. Alex Gourlay, President of the Asheville Downtown Association and member of the Asheville Downtown Commission, presented Council with a resolution asking City Council to consider moving forward with parking studies for downtown.

At a meeting several months ago, the Asheville Downtown Commission adopted a resolution concerning parking studies for downtown. Conducting parking studies for three areas of downtown (City-County area, South Patton area and Battery Hill area) has been discussed off and on for several years. The Downtown Commission has a task force working on parking issues and it is felt by the Commission and the task force that the need for the studies is still critical.

The previous City Council was presented, in early 1995, with a proposal to fund $5,000 of a total $24,000 cost for these studies but decided not to proceed at that time. The Downtown Commission would encourage City Council to again look at conducting these studies. Initial steps would involve contacting those parties previously committing funding and contacting the consultant previously selected to see if these parties are interested in continuing to work with the City on this effort.

Vice-Mayor Field said that in the work program for the Transportation Advisory Committee, $3,000 has been set aside for a parking study for downtown.

When Councilman Cloninger asked why the studies were being conducted for those three areas, it was recalled that the entire downtown area was considered, but those were the three greatest areas of need.

It was the consensus of Council to direct staff to contact those parties previously committing funding to see if they are still interested in continuing to work with the City on this effort.

City Manager Westbrook said that he would have staff report back to Council with a recommendation on how to proceed with the parking studies, including possibly a Request for Proposals for a consultant, along with the funding costs.

STEPHENS-LEE RECREATION CENTER RENOVATIONS UPDATE

Mr. Irby Brinson, Parks & Recreation Director, said that concerns have been raised by members of the Stephens-Lee Alumni Association regarding funding and timing of the renovation of the Stephens-Lee Recreation Center.

The renovation of Stephens-Lee Recreation Center was approved in the Capital Improvement Plan ("CIP") budget for Fiscal Year 1996-97. Funding for this project included the sale of Certificates of Participation ("COP") for $1.25 million to be paid back at $100,000 per year. In addition, another $100,000 was approved to come from outside sources. A total of $450,000 has been appropriated from prior years with the $1.25 million and $100,000, a total of $1.8 million would be available to complete this project.

On July 19, 1996, Edward Parrish, Sam Camp, Jim Westbrook, Bob Wurst and Irby Brinson met to discuss concerns in regard to two issues which had been raised. The first issue dealt with why $100,000 was being requested from outside sources and why it is necessary to secure this money prior to beginning the renovations. The second issue dealt with the timing of the project. It was shared with Mr. Parrish and Mr. Camp that the sale of the COP's would occur at the same time COP's for the Municipal Building were sold. This would occur next summer in order to keep the cost of the transaction at a minimum. Both of these issues were deemed unacceptable by Mr. Parrish and Mr. Camp and requested this issue be brought before City Council.

The Parks & Recreation Department requests clarification in regard to the above issues in order to proceed with the project.

Mayor Martin recalled that the prior City Council requested the community to come up with $600,000 and the present City Council reduced that amount to $100,000, which could be in the form of grants. The Parks & Recreation Department staff is willing to help write the grants

for the community and/or the Stephens-Lee Alumni Association. He felt that there needed to be some participation by the community on this renovation.

Vice-Mayor Field concurred with Mayor Martin's comments noting that Council felt this was a high priority and there was a strong feeling that we needed support and buy-in from the community.

Mr. Everett E. Parrish, representative of the Stephens-Lee Alumni Association, briefed Council on the background of this request which started in 1993. He noted that in October of 1994 City Council was presented with a petition containing 850 names asking that this renovation be started. He questioned the funding for the project and why City Council has not yet started the renovations. He felt that asking the community to come up with $100,000 was double taxation.

Staff reiterated that $350,000 (from the sale of Airport property) is earmarked for the renovations; $100,000 has been allocated in the CIP from Fiscal Year 1994/95 budget; $100,000 has been requested as a buy-in from the community - noting that the $100,000 could be in grants that the community has been able to secure; and $1.25 million will be in COP's - totaling a $1.8 million project.

Mayor Martin stressed that Council is trying to get this project started, but a $1.8 million project takes a lot of planning. Council is very much interested in this project. Since the bulk of the money for this project will be in COP's, construction cannot begin until those are sold, which won't be until the spring or summer of 1997. There is a savings of approximately $100,000 by combining the sale of the COP's for the Municipal Building Project and this project.

Mr. Samuel Camp stressed that this building is an investment to the City and construction needs to be started as quickly as possible.

Vice-Mayor Field noted that you can't begin a project of this size until the funding is in place and it is to the benefit of the taxpayers and the City to combine the COP's. She noted several projects that the City has had private/public participation in, most recently the park in Haw Creek.

Vice-Mayor Field also clarified the funding again by stating that the previous City Council had agreed to fund $350,000 from the sale of Airport property plus $100,000 a year for three years, totaling $650,000, and that the community would come up with the remaining $600,000. The present funding calls for $350,000 from the sale of Airport property, $100,000 in City cash, $100,000 from the community, and $1.25 million from sale of COP's, with debt service budgeted at $105,000 for 20 years.

Mr. H. K. Edgerton stressed that this is a community center for the entire community, not just the African-American community center and he felt that the Stephens-Lee Alumni Association should not have to raise the entire $100,000. He felt there might be a better way to finance the project other than the sale of COP's.

CITY'S PARTICIPATION IN SIDEWALKS ON I-40/SWEETEN CREEK ROAD INTERCHANGE

Mr. Ron Fuller, Transportation Planner, said that the N.C. Dept. of Transportation ("NC DOT") has expressed a willingness to participate with the City of Asheville in constructing sidewalks along one side (the east) of the project associated with a new interchange at I-40 and Sweeten Creek Road.

The scope of the project goes from Roberts Road (just south of I-40) to the northern terminus of the project (a few hundred feet north of the interstate). The NC DOT has stated that this would be a shared venture. The State would provide 60% with the City picking up the remaining 40%. They have preliminary estimated the total cost at $37,000. The City would be asked to provide $14,800.

NC DOT is also improving Sweeten Creek Road from Roberts Road to Rock Hill Road and the Asheville City Council agreed to participate in a sidewalk along that section of roadway. That project is scheduled to begin construction in mid-1999 and the City's estimated contribution was $37,000 for 1.5 miles of sidewalk.

The construction date for the interchange project is late fall of 1997 or early in 1998. If the City is willing to participate, then that should give ample time to program needed funds into the Capital Improvement Plan. The first step in this process is for the City to provide a letter to NC DOT indicating our willingness to participate. Following this, a municipal agreement would be prepared and forwarded to the City to review and execute. As part of the approval of the agreement, staff would prepare a budget amendment to appropriate funds for the City's cost participation in the sidewalk construction.

The Transportation Advisory Committee recently looked at this request and unanimously recommended that we pursue sidewalks.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

OTHER BUSINESS:

Next Community Meeting

It was the consensus of City Council to hold their next community meeting on Tuesday, October 29, 1996, at 7:00 p.m. in the west area of town. A location will be determined at a later date.

Bicentennial; PACE Committee; Kiosks

Ms. Leni Sitnick said that the Bicentennial T-shirts are now available and she would like to have each member of Council have one. She also questioned when the PACE Committee was going to be meeting again and was informed that the Committee would be meeting soon and a notice would be placed in the paper. Ms. Sitnick felt that there needed to be some kiosks placed downtown that people could put their posters and flyers on without destroying the look of downtown. The boards that people are using now to post on might look better if some students from Asheville High paint buildings on them. She welcomed Council's creativity.

City Manager Westbrook said that Council has approved one or two kiosks for the downtown and the Public Works Department is looking for the most appropriate spots.

CLOSED SESSION

At 4:20 p.m., Councilman Worley moved to go into closed session, pursuant to G.S. 143-318.11 (a) (6) in order to consider the qualifications of prospective City officers or employees. This motion was seconded by Vice-Mayor Field and carried unanimously.

At 4:50 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Vice-Mayor Field and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:50 p.m.

Magdalene Burrows
CITY CLERK

MAYOR

Friday - September 6, 1996 - 1:00 p.m.
North Fork Clubhouse

Mini-Retreat

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

City Council was given an update on their 1996/97 Strategic Plan, which objectives and status of each is attached hereto as Exhibit "A". City staff answered various questions regarding the status of different goals.

Water Resources Director Mike Holcombe briefed Council on the new Mills River Plant, along with financial information.

Audit/Budget Director Bob Wurst reviewed with Council the budget projections for the upcoming years.

Some other items discussed were:

(1) Future Focus of Bele Chere Festival - A strategic plan is being developed and will be brought to Council at a future worksession.

(2) Annexation - Map of consideration to be updated and brought to Council at a future worksession for further direction.

At 4:45 p.m. Mayor Martin left meeting.

(3) City Council Worksessions - Worksessions to be information gathering sessions, not decision-making; no indication of decisions at worksessions; flexibility in worksession agenda so that large groups of people do not have to wait a long time for their topic; Mayor and City Manager to be liberal in placing items on the Consent Agenda, with the understanding that Council can pull an item off to be discussed; and more detailed staff reports.

(4) Speedy Inspections - Concerns being addressed to staff.

(5) Sidewalks - Look for creative ways to get sidewalks built and encourage community involvement.

(6) Greenway Update - Committee will be updating Council soon.

(7) Housing Issues - Information is going to Housing & Community Development Committee next week.

(8) Small Area Plans - Updated on Charlotte Street Plan, Factory Hill Plan, Haywood Road Plan and WAC 10.

(9) Fire Department - Updated on ISO rating and general operations.

Vice-Mayor Field adjourned the meeting at 5:45 p.m.

_____ _____

CITY CLERK MAYOR

EXHIBIT "A"

City of Asheville
City Council Strategic Plan
Fiscal 1996/1997

OBJECTIVES	*STATUS*
I. Complete and adopt Unified Development Ordinance	
Staff work completed by December 31, 1996	The UDO Process is on track. Text is under review
Public review and adoption by June 30, 1997	by P&Z with maps to be ready by January, 1997.
II. Adopt and support "Community Oriented Government"	Included in Fiscal 1996/97 Budget
Staff to prepare multi-year plan	Four "Resource Centers" to be on line December 1996
Include first year costs/resources in 1996/97 Budget	Community Enhancement lead Team in place
	Community City Council meetings Scheduled
	CityWorks produced weekly
III. Encourage and support Police Community Resource Centers	
Support current centers	Continued support for two existing centers
Encourage additional centers if community commitment is evident	Location for a center in the Oakley area being sought
	Police "beat' established at Livingston Street
	South Asheville precinct design proceeding
IV. Address planning for and funding of City facilities/projects/needs	
1.Stephens-Lee Community Center	Funded- Project to begin 1997
2.Municipal Building	Funded- Project to begin 1997
3.Civic Center long range improvements	Study committee being organized
4.Transit Transfer Center	Funded- Construction complete by end of Fiscal 1996/97.
5.Transportation and funding	On going Transit Funding still an issue to be resolved.
6.Housing needs	On going
V. Parks Long Range Plan Priorities	
Include in Capital Improvement Plan	Funding for Greenways, Lake Craig, Stephens-Lee and
Look at funding options to include a dedicated revenue stream and financing options.	some other proects funded, however a number of items unfunded.
VI. Proceed with enforcement of Sign Ordinance	
Provide staff resources	Additional staff being hired - notice of noncompliance scheduled for January 1997.
Appoint supportive people to Board of Adjustments	On going
VII. Maintain or improve the City's financial strength.	
No Ad Valorem tax increase	Done-Fiscal 1996/97 Budget
Maintain or improve City's bond ratings	On going
Adhere to City's Fiscal Policy	Done-Fiscal 1996/97 Budget except Fund Balance reserve
Maintain or increase City's fiscal reserves	Done-Fiscal 1996/97 Budget except Fund Balance reserve
Support city-wide economic development	On going
Encourage improved business climate	On going
Continue to identify and fund infrastructure needs	On going

OBJECTIVES	STATUS
VIII Encourage and support City employee relations	
Support Legacy of Excellence	On going - there are currently 23 active teams
Encourage "risk taking"	On going
Address Pay Plan issues	Position Classification Study included in Fiscal 1996/97 Budget and currently in place.
Decentralize government and empower employees	On going
IX. Adopt and begin a phased residential solid waste recycling program after July 1, 1996	
Adopt a fee schedule	Completed - to be effective January 1, 1997
Select recycling method	Completed - to be effective January 1, 1997
Begin education programs	
X. Work toward addressing City School educational performance disparities with the use of a task force.	On going
XI. Seek improved City/County/Regional cooperation.	On going
XII. Provide leadership in pursuit of the Asheville/Buncombe Vision, the 2010 Plan, the Bicentennial Celebration, and seek the All American City designation.	On going Bicentennial planning underway Asheville/Buncombe Vision and 2010 Plan incorporated into Fiscal 1996/97 Budget

Tuesday - September 10, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Hay gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF MS. ADINA BAILEY, LOGO DESIGN WINNER OF THE ASHEVILLE-BUNCOMBE DRUG FORUM SUBSTANCE ABUSE AWARENESS MONTH

Mayor Martin recognized Ms. Adine Bailey, logo design winner of the Asheville-Buncombe Drug Forum Substance Abuse Awareness Month. She was presented with a banner of her logo design, along with a $50 savings bond.

II. CONSENT AGENDA:

Councilman Skalski asked that Item E (Resolution amending the South Pack Square Redevelopment Plan) be pulled off the Consent Agenda.

Mr. Ralph Bishop asked that Item A (Approval of the minutes of the meetings held on August 27 and September 3, 1996) be pulled off the Consent Agenda.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 27, 1996, AND THE WORKSESSION HELD ON SEPTEMBER 3, 1996

This item was pulled from the Consent Agenda to be discussed below.

B. RESOLUTION NO. 96-164 - RESOLUTION ACCEPTING A REPORT ON THE DISPOSAL OF CITY-OWNED PERSONAL PROPERTY

Summary: Resolution No. 85-99 adopted on June 25, 1985, established procedures for disposing of personal property valued at less than $500. Pursuant to these procedures, the attached resolution identifies property disposals for the Fleet Management Division and the Water Resources Department during the period of January 1, 1996, through June 30, 1996.

RESOLUTION BOOK NO. 23 - PAGE 293

C. RESOLUTION NO. 96-165 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES, TRANSIT COACHES, OFF ROAD EQUIPMENT AND OTHER SURPLUS PROPERTY AT PUBLIC AUCTION

Summary: This resolution authorizes the City's Purchasing Division to hold a public auction to dispose of motor vehicles, transit coaches, off-road equipment, and other miscellaneous property declared

surplus by various City departments. The auction to be held Saturday, October 19, 1996, at 10:00 a.m. in the Public Works Complex at 161 S. Charlotte Street.

RESOLUTION BOOK NO. 23 - PAGE 294

D. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 24, 1996, TO CONSIDER DESIGNATING STEPHENS-LEE COMMUNITY CENTER AS A LOCAL HISTORIC LANDMARK

Summary: A public hearing is necessary to adopt an ordinance designating the Stephens-Lee Gymnasium and the site of the former high school as a local historic landmark. This action will be to set a public hearing for September 24, 1996.

E. RESOLUTION AMENDING THE SOUTH PACK SQUARE REDEVELOPMENT PLAN

This item was pulled from the Consent Agenda to be discussed below.

F. MOTION AUTHORIZING THE CITY MANAGER TO SEND A LETTER TO THE N.C. DEPT. OF TRANSPORTATION OUTLINING THE CITY'S AGREEMENT TO PARTICIPATE IN SIDEWALKS ON I-40/SWEETEN CREEK ROAD INTERCHANGE

Summary: N.C. Dept. of Transportation ("NC DOT") has expressed a willingness to participate with the City of Asheville in constructing sidewalks along one side (the east) of the project associated with a new interchange at I-40 and Sweeten Creek Road.

The scope of the project goes from Roberts Road (just south of I-40) to the northern terminus of the project (a few hundred feet north of the interstate). The NC DOT has stated that this would be a shared venture. The State would provide 60% with the City picking up the remaining 40%. They have preliminary estimated the total cost at $37,000. The City would be asked to provide $14,800.

NC DOT is also improving Sweeten Creek Road from Roberts Road to Rock Hill Road and the Asheville City Council agreed to participate in a sidewalk along that section of roadway. That project is scheduled to begin construction in mid-1999 and the City's estimated contribution was $37,000 for 1.5 miles of sidewalk.

The construction date for the interchange project is late fall of 1997 or early in 1998. If the City is willing to participate, then that should give ample time to program needed funds into the Capital Improvement Plan. The first step in this process is for the City to provide a letter to NC DOT indicating our willingness to participate. Following this, a municipal agreement would be prepared and forwarded to the City to review and execute. As part of the approval of the agreement, staff would prepare a budget amendment to appropriate funds for the City's cost participation in the sidewalk construction.

The Transportation Advisory Committee recently looked at this request and unanimously recommended that we pursue sidewalks.

G. RESOLUTION NO. 96-166 - RESOLUTION TO AUTHORIZE THE SUBMITTAL OF A FUNDING APPLICATION TO THE U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT THROUGH THE ECONOMIC DEVELOPMENT INITIATIVE

Summary: City Council will consider approving the submittal of an application to HUD for funding through the HUD Economic Development Initiative (EDI) program to increase homeownership opportunities in a target area to be designated as a homeownership zone. The target area will include the West End/Clingman Avenue neighborhood under Phase I and be expanded to surrounding neighborhoods such as West Asheville's WACT 10 area for the second phase. The goal will be to create at least 300 new single family homes as a result of the project.

The City will also be applying for other funding through the HUD Section 108 loan program to augment the EDI funds within the next 60 days. Separate Council action will be needed to authorize the Section 108 loan application at a later date.

Pisgah Legal Services will be responsible for preparing the EDI funding application and coordination with the private sector to leverage additional funding.

Deadline for submittal of the application is September 16, 1996. The Housing & Community Development Committee will discuss the project on September 10, prior to full Council action.

The Community Development staff recommend approval of submitting the funding application.

RESOLUTION BOOK NO. 23 - PAGE 295

H. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 24, 1996, TO REZONE 112 LOTS IN THE WILSHIRE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

I. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 24, 1996, TO REZONE 14 LOTS IN THE BURTON STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CS COMMERCIAL SERVICE DISTRICT

J. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 24, 1996, TO AMEND THE ZONING ORDINANCE TO CLARIFY THE OPEN SPACE REQUIREMENTS IN THE OI OFFICE INSTITUTIONAL DISTRICT

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Skalski moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2315 - ORDINANCE AMENDING THE OUTDOOR DINING AREAS WHICH WILL ALLOW OUTDOOR DINING PERMIT DURING COMMUNITY EVENTS AND FESTIVALS

Summary: Consideration of a revision of Section 11-11 of the Code of Ordinances to amend subsection (f) which will allow outdoor dining permits during community events and festivals.

The new subsection (f) of the revised Section 11-11 of the Code still provides that the City permits for outdoor dining areas, but will be temporarily suspended at locations designated for community events and festivals which was permitted under section 16-97 of the Code. As

you recall, Ordinance No. 2303 amended subsection 16-143(b) to delete the provision that outdoor dining permits were temporarily suspended for community events and festivals. When that amendment occurred, it was also necessary to amend subsection (f) of Section 11-11 of the Code. In order to clarify this issue, the Parks and Recreation Department wishes to amend Section 11-11 by deleting it in its entirety and substituting a new Section 11-11 which removes that language from subsection (f).

Parks and Recreation Department, along with Planning, Police and Legal recommend that Section 11-11 be deleted and substituted with the new Section 11-11 which will allow outdoor dining permits during festivals and community events.

ORDINANCE BOOK NO. 16 - PAGE

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance on the Ordinance Consent Agenda and it will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and only reading.

ITEMS PULLED OFF THE CONSENT AGENDA FOR FURTHER DISCUSSION

RESOLUTION NO. 96-167 - RESOLUTION AMENDING THE SOUTH PACK SQUARE REDEVELOPMENT PLAN

Summary: The South Pack Square Redevelopment Plan was adopted by City Council on June 15, 1993. Technical changes are needed to include reference to the Eagle/Market Streets Development Corporation ("EMSDC") instead of the YMI CDC. The amended plan will also include reference to the City of Asheville instead of the Housing Authority as Redevelopment Commission. Formation of the EMSDC is included in the section on "History".

The Community Development staff recommends adoption of the resolution amending the plan.

Councilman Skalski said that he voted against the amendment to the South Pack Square Redevelopment Plan in the Housing & Community Development Committee and wanted to be consistent on voting in this matter.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-167. This motion was seconded by Councilman Cloninger and carried on a 6-1 vote, with Councilman Skalski voting "no".

RESOLUTION BOOK NO. 23 - PAGE 296

APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 27, 1996, AND THE WORKSESSION HELD ON SEPTEMBER 3, 1996

Mr. Ralph Bishop questioned an article in the newspaper that City Council was going to limit public comment at their worksessions. He said that City Council had no authority to impose that limitation.

Mayor Martin said that worksessions are primarily to inform City Council of the issues at hand. He said they are not making decisions at that time. He said that Council is interested in hearing citizens speak; however, there does not need to be a public hearing on every topic.

Councilman Cloninger said that contrary to what the newspaper indicated, City Council took absolutely no action to limit future public participation in worksessions. He said that was an error in the newspaper reporting.

Councilman Worley said that Council actually talked about was revamping the way Council conducts the worksession because we have been discussing issues on the agenda for the next formal session and we've sometimes indicated how our feelings are about those akin to a straw vote. City Council determined not to do that - the comment about the public input is that Council has taught the public that they need to come to those worksessions and speak because they think Council is making decision. He said that Council is trying to get away from that thought process. We are not trying to limit public input and we didn't say we were going to limit public input. We simply said that there's a possibility that if we treat those as information gathering sessions only, the public will feel less of a need to speak at those. But, there was no move on Council's part to limit public input.

Mr. Bishop pointed out that on the staff reports it gave an indication that Council had already concurred with the staff recommendation.

Vice-Mayor Field responded by saying that Council felt uncomfortable taking straw votes during worksessions and they have directed the City Manager that they will not do that in the future. Council will not indicate their position on an issue during a worksession.

Mayor Martin said that Council will not limit public input. He said that the worksessions are changing to meet the needs of Council and the public.

Mr. Bishop asked if the public will be permitted to speak at worksessions. City Council responded that they would.

Vice-Mayor Field moved to approve the minutes of the formal meeting held on August 27, 1996, and the worksession held on September 3, 1996. This motion was seconded by Councilman Sellers and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CLOSING AN UNNAMED ALLEY JOINING MILLER AVENUE AND POND AVENUE

RESOLUTION NO. 96-168 - RESOLUTION TO CLOSE AN UNNAMED ALLEY JOINING MILLER AVENUE AND POND AVENUE IN THE CITY OF ASHEVILLE

Mayor Martin opened the public hearing at 5:24 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Suzanne Molloy, Public Works Director, said that a petition has been received from the Skyland Volunteer Fire Department Inc. ("Skyland VFD") and Kay Brown requesting that an unnamed alley joining Miller and Pond Avenues be permanently closed to public use.

The petition received includes the signature of all the property owners along the alley requested to be closed. The City of Asheville's Fire Chief endorses the closing as it is in the best interest of the City. The City of Asheville is participating in construction of the new fire station on the same site as the street closing. The Skyland VFD has agreed to pay for advertising costs for the closing process.

The Public Works Department staff recommends that the $2,500 fee for closing a street or alleyway be waived and that the Skyland VFD only pay for actual advertising costs as the project is mutually beneficial to the City. The Public Works Department and the Asheville Fire Department will work out the details of the actual expenses. Further, staff recommends the petition to close the unnamed alley joining Miller Avenue and Pond Avenue be approved.

All utilities have been notified and replied that no easements are needed in the unnamed alley.

Vice-Mayor Field said that since alleys were put in mainly as service alleys (for instance picking up garbage, deliveries, etc.), she wondered if they are losing their original purpose since more and more alleys are being closed.

Ms. Molloy said that she hasn't done any research on that particular issue. However, there are a lot of platted alleyways that are on the books, that actually do not serve the public and then, there are other areas where over history and time things have occurred that have changed the purpose of the alleyway.

Mayor Martin closed the public hearing at 5:28 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 96-168. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 297

B. PUBLIC HEARING RELATIVE TO THE ANNUAL TRANSIT OPERATING ASSISTANCE GRANT

RESOLUTION NO. 96-169 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION

Mayor Martin opened the public hearing at 5:29 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transportation Planner, said that this grant will assist in offsetting the operating cost of the Asheville Transit Authority. These funds will be used for operating the fixed route transit system and assists in funding the City's comparable paratransit program operated under "BOOST".

Upon inquiry of Councilman Skalski, Mr. Ownbey said that our federal allocation last year was $570,000, noting that it was cut from last year to this year by $200,000.

Mayor Martin closed the public hearing at 5:30 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Skalski moved for the adoption of Resolution No. 96-169. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 298

C. **PUBLIC HEARING RELATIVE TO THE PURCHASE OF 6.156 ACRES OF LAND IN HAW CREEK FROM CAROLINA POWER & LIGHT COMPANY**

RESOLUTION NO. 96-170 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY FOR THE PURCHASE OF 6.156 ACRES OF LAND IN HAW CREEK FROM CAROLINA POWER & LIGHT COMPANY

Mayor Martin opened the public hearing at 5:31 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter said that N. C. Gen. Stat. sec. 160A-20 requires that the City Council conduct a public hearing prior to authorizing the Mayor to execute a promissory note and deed of trust to CP&L in connection with the acquisition of property in Haw Creek.

CP&L has agreed to sell to the City 6.156 acres of land in Haw Creek for a purchase price of $90,000.00, plus interest at the rate of 4% per annum which will require total payments by the City of $99,176.00 in four equal annual payments of $24,794.00 each commencing September 30, 1996.

Because the City will be giving a promissory note secured by a deed of trust upon property which will be owned by the City, N. C. Gen. Stat. sec. 160A-20 requires that a public hearing be held.

Mayor Martin closed the public hearing at 5:31 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Cloninger moved for the adoption of Resolution No. 96-170. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 299

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. **RESOLUTION NO. 96-171 - RESOLUTION AUTHORIZING THE APPROVAL, EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION WITH WATER SYSTEM REVENUE BONDS**

Mr. Bill Schaefer, Finance Director, said that the issuance of bonds by the City of Asheville will require the appointment of a trustee and the approval and execution of the General Indenture among the City and Trustees, Series Indenture among the City and the Trustees, Purchase Contract among the City, the Local Government Commission and Underwriters, Placement Agreement between the City and NationsBank N.A., and the Preliminary Official Statement and Official Statement.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-171. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 300

B. **ORDINANCE NO. 2316 - BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $33,000,000 WATER SYSTEM REVENUE BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA**

Mayor Martin said that members of Council have been previously furnished with a copy of the bond order and it would not be read.

Upon inquiry of Mr. H.K. Edgerton, Councilman Worley said that the revenue bonds are backed by the revenues of the water system. In term of what that will do to water rates, that has already been built in the water rate projections for the next five years.

Mayor Martin commented that for the last 20 years we have been searching for an answer to our water problems and by doing this, we are on the verge of realizing the solution to the problem. He was pleased that this Council has been a part of this process.

Councilman Worley moved that the following bond order be adopted. This motion was seconded by Vice-Mayor Field.

BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED $33,000,000 WATER SYSTEM REVENUE BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

WHEREAS, the City of Asheville, North Carolina (the "City") is authorized by The State and Local Government Revenue Bond Act, N. C. Gen. Stat. sec. 159-80 *et seq.* (the "Act") to issue, subject to the approval of the Local Government Commission of North Carolina (the "Commission"), at one time or from time to time, revenue bonds and revenue refunding bonds of the City for the purposes as specified in the Act; and

WHEREAS, the City has determined to issue its Water System Revenue Bonds, Series 1996 (the "Bonds") in an aggregate principal amount not to exceed $33,000,000 to provide funds to finance the cost of certain improvements as described herein; and

WHEREAS, the City will issue the Bonds pursuant to the terms of the General Trust Indenture dated as of September 15, 1996 (the "General Indenture") among the City, The Bank of New York, as trustee (the "Trustee") and Central Carolina Bank and Trust Company, as co-trustee (the "Co-Trustee"), and Series Indenture, Number 1 dated as of September

15, 1996 (the "Series Indenture" and together with the General Indenture, the "Indenture") among the City, the Trustee and the Co-Trustee; and

WHEREAS, the City and the Local Government Commission of North Carolina have arranged for the sale of the Bonds to The Robinson-Humphrey Company, Inc., Alex. Brown & Sons Incorporated and NationsBanc Capital Markets, Inc. (collectively, the "Underwriters") pursuant to the terms of a Bond Purchase Agreement to be dated on or about September 26, 1996 (the "Purchase Contract"); and

WHEREAS, an application has been filed with the Secretary of the Commission requesting Commission approval of the Bonds as required by the Local Government Revenue Bond Act, and the Secretary has notified the City Council (the "City Council") of the City that the application has been approved by the Local Government Commission.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE AS FOLLOWS:

Section 1. The City Council has ascertained and hereby determines that it is necessary and desirable (a) to provide for extensions, additions and capital improvements to, and the renewal and replacement of capital assets of, and purchasing and installing new equipment for, the water system of the City and its surrounding areas (the "Water System"), including, without limitation, the acquisition, construction and equipping of (i) the Mills River Regional Water Treatment Facility, (ii) raw water storage facilities near the confluence of the French Broad River and the Mills River in Henderson County, North Carolina, and (iii) certain pump stations, transmission mains, distribution pipelines and additional pipelines throughout the County of Buncombe, North Carolina, and (b) to pay the capital costs of such acquisition, construction and equipping.

Section 2. In order to raise the money required for the capital costs of the acquisition, construction and equipping described above, in addition to any funds which may be made available for such purpose from any other source, the Bonds are hereby authorized and shall be issued pursuant to the Act.

Section 3. The aggregate principal amount of revenue bonds authorized by this order shall not exceed $33,000,000. The Bonds hereby authorized shall be special obligations of the City, secured by and paid solely from the proceeds thereof or from revenues, income, receipts and other money received or accrued by or on behalf of the City from or in connection with the operation of the Water System.

Section 4. The issuance of the Bonds by the City in the principal amount of not more than $33,000,000, in substantially the form to be set forth in the Series Indenture, be and the same hereby is in all respects approved and confirmed. The form and content of the Bonds and the provisions of the Series Indenture with respect to the Bonds (including, without limitation, the maturity dates and rates of interest) shall be approved and confirmed in a subsequent resolution of this City Council.

The Bonds shall be special obligations of the City. The principal of and interest on the Bonds shall not be payable from the general funds of the City, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts or revenues except the funds which are pledged under the Indenture. Neither the credit nor the taxing power of the State of North Carolina or the City are pledged for the payment of the principal

of or interest on the Bonds, and no holder of the Bonds has the right to compel the exercise of the taxing power by the State of North Carolina or the City or the forfeiture of any of its property in connection with any default thereon.

Section 5. The Bonds shall be sold to the Underwriters pursuant to the terms of the Purchase Contract as the same shall be approved in a subsequent resolution of this City Council.

Section 6. The proceeds from the sale of the Bonds shall be deposited in accordance with the Series Indenture.

Section 7. If any one or more of the agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof or of the Bonds authorized hereunder.

Section 8. All resolutions or parts thereof of the City Council in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

Section 9. This Bond Order shall take effect immediately on its adoption and pursuant to N. C. Gen. Stat. sec. 159-88 need not be published or subjected to any procedural requirements governing the adoption of ordinances or resolutions by the City Council other than the procedures set out in the Act.

On a roll call vote of 7-0, Ordinance No. 2316 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 88

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on September 4, 1996:

JOHNSTON ELEMENTARY SCHOOL ADDITIONS & RENOVATIONS

Mr. Carl Ownbey, Urban Planner, said that this proposed project is for renovations to classrooms, administrative offices, and the library for the existing elementary school located at 230 Johnston Boulevard in West Asheville. He said that on August 5, 1996, the Planning Department received the site plan for the renovations to the existing elementary school. The proposed new construction will be 22,600 square feet of classrooms, administrative offices, and library. The site plan was presented to the Technical Review Committee on August 12, 1996, for their comments.

On September 4, 1996, the Commission reviewed the site plan. The only concern addressed came from the Commission with regards to bus traffic flow and visibility around the required street trees. After a discussion, the Commission requested that City Council grant a variance to the street tree requirement and allow the architect to propose a landscaping alternative that meets the intent of the ordinance and provides adequate site visibility for the buses.

The Commission voted unanimously to approve the project with the request for the variance of the street tree requirements.

Vice-Mayor Field moved to set a public hearing on September 24, 1996, to consider the approval of a site plan and a request for a variance to the street tree requirements for renovations and additions to Johnston Elementary School located at 230 Johnston Boulevard. This motion was seconded by Councilman Sellers and carried unanimously.

ASHEVILLE HOTEL RENOVATIONS AT 53-55 HAYWOOD STREET

Mr. Carl Ownbey, Urban Planner, said that the Asheville Hotel Building is located at 53 Haywood Street (at the corner of Haywood Street and Walnut Street). The plans are to renovate the building for retail uses at ground level and residential uses (29 apartments) on the upper floors. An addition is planned at the rear of the building which will contain an entry lobby, a stair tower and an elevator shaft.

There is a platted alley running underneath the existing building. In order to clear up any legal issues, the alley should be officially closed or the question of who has the right of ingress and egress should be clarified.

At the Commission meeting held on September 4, 1996, the Commission voted unanimously to recommend approval of the group development with the following conditions: (1) receipt of letters indicating approval for water and sewer availability; and (2) that the platted alley be closed or that the question of who has the right of ingress and egress be clarified.

The Planning Department staff recommends approval of the proposed group development with the same conditions recommended by the Commission.

Mr. Ownbey said that the second condition regarding the platted alley has been cleared up.

Upon inquiry of Vice-Mayor Field relative to a possible conflict of interest since she is part owner of a piece of property at 33 Haywood Street, City Attorney Slawter said that he saw no conflict of interest.

Councilman Hay inquired about the design review process. Mr. Gerald Green, Senior Planner, explained the building is in downtown and is therefore subject to the downtown design review process. The addition is considered major work and major works must be reviewed and action taken by the Planning & Zoning Commission, which is the review board for design review for major works. There were questions by one of the Commission members regarding the design of the addition in that the facade of the addition will be a mixture of concrete blocks, some metal panels and a stucco-type finish which is in contrast to the brick finish of the existing Asheville Hotel. The majority of the Commission did, however, approve the downtown design review. The architect for the project pointed out that they are applying for tax credits under the Federal Rehabilitation Program for Historic Buildings and the Secretary

of the Interior Standards state that additions must clearly be additions - they should not mimic an existing building. In this case, the local downtown design review guidelines which require compatibility and design were at odds with the Secretary of the Interior design standards for rehabilitation of historic structures. Given that our local review is mandatory with voluntary compliance, and the Secretary of Interior standards would allow them some tax breaks, they went with standards which were most beneficial to them.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

B. RESOLUTION NO. 96-172 - RESOLUTION AUTHORIZING DONATION OF SURPLUS BUSES TO ASHEVILLE SISTER CITIES INC.

City Attorney Slawter said that this resolution is a result of a request received on September 3, 1996, for the donation of two of the best running buses to Asheville Sister Cities Inc. to benefit the citizens of the Town of San Cristobal, state of Chipas, Mexico, a sister city to the City of Asheville.

He felt that the conveyance should be to the non-profit corporation rather than to the Town of San Cristobal. He said that the buses will be conveyed for a price of $1.00 per bus and that a notice be advertised in the newspaper ten days prior to the sale being consummated.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-172. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 305

C. CLAIMS

The following claims were received by the City of Asheville during the week of August 23-September 5, 1996: BellSouth (Water), Amy Blankenship (Streets), Chris McGrayne (Streets) and Wayne Roper (Streets).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

D. CLOSED SESSION

At 5:50 p.m., Councilman Skalski moved to go into closed session pursuant to G.S. 143-318.11 (a) (6) in order to consider the qualifications of prospective City officers or employees; and pursuant to G.S. 143-318.11 (a) (3) in order to preserve the attorney-client privilege. This motion was seconded by Councilman Sellers and carried unanimously.

At 5:15 p.m., Councilman Skalski moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:15 p.m.

Magdalen Bowdoin
CITY CLERK

MAYOR

Tuesday - September 17, 1996 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

HURRICANE FRAN ASSISTANCE

City Manager Westbrook said that Hurricane Fran left the eastern part of North Carolina in disarray and the City Manager of Wilson called and asked for some emergency assistance. The City of Asheville sent two crews from our Public Works Department, Streets Division, to lend assistance. He then recognized the employees who traveled to Wilson to help - Mark Slaughter, Tony Higgins, Tommy Carver, David Foster, Joe Newell, Bill Weist, Wayne Parham, Robert Jones, James E. Boone, Jackie DeWeese, Robert West, Doyle Petros, Anthony Mills, Jeremy Burleson and Charles Anders.

Mr. Tony Higgins briefed the Council on the devastation suffered in Wilson and how the Street Division crew was able to help.

On behalf of the City Council, Mayor Martin expressed his appreciation to the employees.

CONSENT AGENDA:

Shiloh Park Trail Grant

Summary: The consideration of applying for state grant funds to build a trail at Shiloh Park.

Funds are available through the State of North Carolina, Department of Environment, Health and Natural Resources in the Division of Parks and Recreation through the Adopt-A-Trail Program for construction of trails for public use. The City of Asheville wishes to apply for grant funds to build a trail at Shiloh Park.

The Shiloh Park Trail represents the City of Asheville's commitment to provide open space areas that will encourage urban passive park activities for all ages in neighborhood parks. The paved trail will be located around the perimeter of Shiloh Park. The first segment of the trail will be approximately 8' wide and 1,500' in length.

The cost of the project will be a maximum of $7,000. The Parks and Recreation Department is requesting approximately $5,000 in grant funds which would be partially matched by City staff's labor, equipment, design, planning, and project supervision. Funds for this match are available in the operating budget of the Park Maintenance Division.

Parks and Recreation Department recommends Council authorize the City Manager to apply for and enter into this agreement.

Grant Application for Broadway Greenway

Summary: The Planning and Development Department has applied for a grant to be used for the Broadway Greenway.

Planning staff has applied for The Pigeon River Fund Grant. The deadline for this grant was August 15, 1996. Staff did not request Council's permission beforehand due to a quick deadline. The Pigeon River Fund exists to improve the streams and rivers of Haywood, Buncombe and Madison Counties. One area of funding is for the creation of greenways along creeks and streams. The Broadway Greenway proposal met all the criteria necessary for this grant. Staff requested funds (up to $20,000) to hire a professional land conservation organization (such as The Trust for Public Land or The Conservation Fund) to help secure the right of way along the greenway. There is no monetary commitment necessary from the City if we were to receive these funds. The Planning and Development requests Council's approval of this grant request.

Staff recommends the concurrence of City Council in the application for this grant for this grant for the Broadway Greenway.

Upon inquiry of Councilman Hay, HRC Director Maggie O'Connor said that we should hear whether or not we received the grant in approximately six weeks.

Urban Trail Grant

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the North Carolina Adopt-a-Trail program in the amount of $2,000. The grant would provide funding for approximately 13 granite markers placed in specific locations in downtown along the Urban Trail to assist walkers to follow the self-guided "trail" walk. The grant will provide covering the costs of the materials, installation and administration for 13 different sites.

The Urban Trail is an historical walking trail composed of 27 stations located throughout downtown with future plans of placing over 200 granite (thematic) markers in specifically designated areas as guided markers for the walkers. Over the past three years, funds have been received by private donors toward the Urban Trail and as of this time, approximately 72 granite markers have been donated and installed.

If the grant is funded, it will cover the cost of 13 granite markers. We are pursuing other funding sources for the balance of the markers.

The North Carolina Adopt-a-Trail grant requires no matching cash for the grant. However, extensive volunteer support has been and will be available from the Urban Trail Committee. City Development staff will also assist through the process.

The Urban Trail Committee and the City Development staff recommend submission of this grant to the North Carolina Adopt-a-Trail program.

Budget Amendment re: Structural Analysis of Hopkins Chapel

Summary: The National Trust for Historic Preservation will grant HRC $2,084 for a structural analysis of Hopkins Chapel.

The Historic Resources Commission (HRC) and the Preservation Society of Asheville and Buncombe County are working with the members of Hopkins Chapel AME Zion Church to save the church from collapse. The National Trust for Historic Preservation will grant HRC $2,084 for an in-depth structural analysis and to develop a permanent stabilization plan. Preservation North Carolina and The Covington Foundation have agreed to grant the Preservation Society of Asheville and Buncombe County an additional $8,500 for the structural analysis. Both HRC and

the Preservation Society believe that Ellen Harris, William Westcott and Dave Fischetti should conduct the analysis and develop a stabilization plan. Mr. Fischetti is known throughout the nation for his work with historic wooden framed structures.

In January 1995, a structural engineer evaluated the condition of the church and recommended the building not be occupied unless temporary shoring was installed. At that time, the congregation elected to move its worship services to another location. Since then the roof has shifted, the floor has dropped, and the walls have thrusted outward. The wood pilasters supporting the scissor trusses are rotted and water logged. In some locations the floor girders (which pocket into the masonry walls) ends have rotted off and the floor is unsupported.

During the past month the church has undergone emergency stabilization, pigeon waste removal, ceiling boards have been removed to allow for a complete investigation of the roof trusses, the pews and stained glass windows have also been removed.

Only a few structures of historic significance to the African-American community remain. Changes in the social, political, and economic areas resulted in the destruction of some area landmarks. If this continues to happen, future generations may suffer from a lack of identity that comes from not seeing evidence of one's roots. "Every child needs a sense of place, a way to identify personally with man-made structures, neighborhoods and communities of yesterday, as well as with the feelings and lifestyles of their inhabitants." Richard C. Balaban and Alison Igo St. Clair.

Hopkins Chapel's rich history and central position in the African-American community is essential to understanding and keeping alive the heritage of African-Americans.

Budget Amendment to Reflect the Transfer of Completed Capital Projects to the Fixed Asset Ledger, to Increase the Appropriations for Pipeline Replacement, to Increase the Appropriation for AM/FM Mapping, and to Delete the Beaucatcher Reservoir Project

Summary: By Resolution No. 92-17 dated May 19, 1992, the Authority authorized and budgeted for various capital projects to be funded by City Water Bond proceeds in the 29 Fund.

This revision is a housekeeping amendment to reflect the transfer of completed projects to the City's Fixed Asset Ledger. It also reprograms funds from savings on projects into the following projects:

- Pipeline Replacement Program Phase I - The Policies/Priorities Committee approved the final Change Order to this contract which will increase the budget $31,544. Attached are the minutes from the Committee's meeting.

- Pipeline Replacement Program Phase III - This project is expected to be bid shortly. In order to balance the ordinance it is recommended that the appropriation for Pipeline Replacement III be increased $171,405.

- AM/FM System - The system is operational and negotiations are beginning for the Final Change Order. Scope changes have occurred since project initiation. Staff is recommending that the budget be increased $100,000 and adjusted downward after the final change order is approved.

Staff recommends approval of a Budget Ordinance amending and restating Capital Project Ordinance 92-17.

Budget Amendment to Reflect the Transfer of Completed Capital Projects to the Fixed Asset Ledger, to Appropriate Funding for the South Brook Water Line Extension, and to Reduce Contingency

Summary: By Resolution 82-25 dated October 5, 1982, the Authority authorized and budgeted for various capital projects to be funded by Investment Earnings, Contributions From Other Funds, and Appropriated Fund Balance.

This revision is a housekeeping amendment to reflect the transfer of completed projects to the City's Fixed Asset Ledger. It also budgets the Southbrook Master Plan extension project on Mills Gap Road as approved by the Asheville-Buncombe Water Authority on August 20, 1996. This project is included in the Authority's Water Distribution Master Plan and is required to supply water to the South Brook Subdivision off Mills Gap Road in South Buncombe. The Authority agreed to contribute $27,700 for the cost of extending an 8-inch waterline, as proposed in the Master Plan.

Staff recommends approval of a Budget Ordinance amending and restating Capital Project Ordinance 82-25.

Participation with the Asheville Partners in Home Ownership

Summary: The City of Asheville will join with other public and private sector organizations to form a local partnership which is consistent with the National Home Ownership Strategy.

The U. S. Dept. of Housing & Urban Development is encouraging the formation of local home ownership partnerships to increase home ownership by eight million across the nation. Expanding home ownership will strengthen the nation's communities and expand the economy.

This resolution contains a goal to increase the percentage of home ownership in Asheville to 64% by the year 2000. This would be an increase of seven percentage points or 1,990 new home buyers. The resolution also contains a description of specific actions to be undertaken over the next four years. Additional funding resources will be identified, the development permit process will be streamlined for affordable home ownership and a task force of private lenders, home builders, non-profits, realtors, local government, etc., will be formed to recommend additional steps to increase home ownership opportunities.

Community Development staff recommends adoption of the resolution.

Renovation of Old Water Maintenance Building

Summary: The consideration of the selection of an architectural/engineering firm to provide design services to renovate the Old Water Maintenance Building in Asheville, North Carolina.

In an effort to renovate the Old Water Maintenance Building at 147 S. Charlotte St. for use by the Asheville City School System, whose existing offices are being displaced by renovations at the Municipal Building, a request for proposal process was implemented to solicit architectural/engineering firms to submit proposals for design services in regard to the renovation of the above-stated.

Requests for proposal were submitted to 16 architectural/ engineering firms, four of which were from certified minority businesses. A committee comprised of four City staff was established to review the proposals received for this project. Group members were Dick Meehan, Superintendent of Parks and Public Facilities; Mike Brookshire, Civil Engineer; Al Kopf, Landscape Architect; and Lyle Willis, Contract Administrator. This request for proposal committee received three proposal submittals, none of which were from certified minority businesses.

The request for proposal committee met to review all proposals. Criteria used in the review process were set up in a matrix system designed to evaluate each of the firms based on experience, quality of work, experience with and quality of projects of similar scope; and each firm's internal processes addressing procedures for: site analysis, cost control, project management, and structural evaluation. A numerical value was assigned to each of these areas and the two firms with the highest score were requested to come in for an in-depth interview covering issues ranging from design experience to extent of staff involvement with this project.

Upon the conclusion of the interview process, one firm was selected as the best choice for this project.

Staff recommends approval of the firm Padgett & Freeman Architects PA, for this project and requests Council approval to direct the City Manager to enter into an architectural/engineering contract for design services to renovate the Old Water Maintenance Building.

Alcoholic Beverages at Greek Festival

Summary: The purpose of this resolution is allow alcoholic beverages at Asheville's 10th Annual Greek Festival.

The N.C. Gen. Stat. section 18B-300(c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on public streets, and on property owned, occupied or controlled by the City. The City Council of the City of Asheville has adopted an ordinance pursuant to that statutory authority. That ordinance, Section 11-11 in the Code of Ordinances, provides that the City Council may adopt a resolution making other provisions at special event or community festival. Asheville's 10th Annual Greek Festival Board, Holy Trinity Greek Orthodox Church and the Parks and Recreation Department recommends that possession and consumption of malt beverages and/or unfortified wine be allowed at Asheville's 10th Annual Greek Festival.

The Parks and Recreation Department recommends that City Council adopt a resolution allowing the possession and consumption of malt beverages and/or unfortified wine at Asheville's 10th Annual Greek Festival.

NEW BUSINESS:

155 ACRE REZONING REQUEST BETWEEN OVERLOOK ROAD AND HENDERSONVILLE ROAD

Mr. Gerald Green, Senior Planner, said that this is consideration of a request to rezone approximately 155 acres to R-1A between Overlook Road and Hendersonville Road.

Planning staff has received a petition requesting a zoning study of approximately 155 acres of land. The location of the area in

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question is south and east of Overlook Road, west of Hendersonville Road and north of Springside Drive. 228 property owners have signed petitions requesting that their land be rezoned from R-2 and R-1 to R-1A. Included in the rezoning area are parcels zoned OI Office Institutional, CH Commercial Highway and R-2 of which the owners have not signed petitions.

The petition meets all requirements to be considered valid. Staff will wait for direction from Council as how to proceed with this request.

Upon inquiry of Vice-Mayor Field relative to a possible conflict of interest since Mr. Richard Green is a client of her firm and a petitioner in this action, City Attorney Slawter said he saw no conflict of interest.

Mr. Green gave the background information of the property in the area zoned OI Office Institutional, ~~(approximately 20 acres). One 10 acre tract has been zoned OI prior to 1988 and has a business on it. The other 10 acre lot presently has tri-zoning on it - Commercial Highway, Office Institutional and R-2 Residential.~~ The north 10 acre tract is made up of 5 acres OI and 5 acres CH. The OI portion of this tract was rezoned prior to 1988 and has a business on it. Mr. Green said the south 10 acre tract is made up of 3 acres CH, 5 acres OI and 2 acres R-2 residential. In 1991, a portion of it was rezoned to OI. In 1993, an application was filed for further rezoning of that tract to OI, but that request was denied.

Upon inquiry of Councilman Cloninger, Mr. Green said that in this area the 2010 Plan calls for low density residential and it also calls for some medium density residential just south of Overlook Drive.

Councilman Worley said that he studied the area carefully and talked to a number of property owners. He was opposed to taking the land area called for in the petition for a rezoning study at this time because of Council's strong priority to complete the UDO and the staff resources that studying a land this large would take from the UDO process. He did realize that the OI tract is driving the petition and therefore, he would support sending the 10 acre OI tract to the Planning Department for recommendation to the Planning & Zoning Commission for the potential rezoning of that tract. He felt there is a need to create a better buffer zone between the residential area and the OI in that area.

Upon inquiry of Mayor Martin, Mr. Green and Planning Director Julia Cogburn each felt that if the Planning Department did undertake this 155 acre rezoning study, it would take approximately a month or longer to complete. Mr. Green noted that it has already taken the Planning staff 60 hours to bring this matter to Council.

Councilman Hay felt that he could support studying the 10 acre tract that had a portion rezoned in 1991 because the other 10 acre tract has a building on it and the use has not changed over the years. If an error was made in 1991 rezoning, then a rezoning study might correct that error.

Upon inquiry of Councilman Cloninger, City Attorney Slawter suggested that if Council declines to request the rezoning study pursuant to the petition and requests a smaller area to be studied, it would be best be called a Council initiated rezoning to ~~deferential~~ differentiate from the total area. If Council decided to go that route, he suggested a motion to deny the rezoning study pursuant to the petition and in its place to request a rezoning study of only the 10 acre tract ~~zoned OI~~ OI portion of the.

Councilman Skalski said that this area has never been totally studied in context of the people who live in the area. He felt that

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this Council had a responsibility to right the wrong that has been done in the area - which allowed the 10 acre tract being partially zoned OI. That rezoning was in violation of the 2010 Plan and putting off the rezoning will only increase the risk to the neighborhoods for more bad planning in the area. He also brought up a concern about a protest petition that could be filed. The property owners have asked the City to help them with this problem and the Council has an obligation to help the citizens of south Asheville. He also felt that it might not require that much staff time to complete the rezoning study.

Upon inquiry of Councilman Hay about why some property owners would want their property rezoned from R-1 to R-1A, Mr. Green said that a requirement of a valid rezoning petition is that 51% of the property owners owning at least 51% of the property is required. In discussions with the petitioners, they included this R-1 area to insure that they had sufficient land mass (minus the signatures of the owners of the OI tracts) to make sure the petition would be valid.

Mr. Richard Green, petitioner, said that the R-1 is already deed restricted with restrictive covenants for the Oak Forest Subdivision. The R-1A will have no affect as long as those restrictive covenants stay in place which automatically renew every 10 years unless the majority of the Oak Forest residents get together and sign an amendment.

Mr. Don Noakley, representing the Board of Realtors, felt that if the property owners want to rezone their own property to R-1A, that was fine. However, they should not be allowed to rezone their neighbors' property against their will. He felt that if Council continually rezoned properties before the UDO was adopted, they would be defeating the purpose of good, sound city planning. His position was that they were against the rezoning of the 155 acres, except for the part where the property owners want to rezone their own property.

Mr. Jim Siemens, attorney representing some residents of Blake Mountain, stated that the heart of the problem is that the OI district allows for 32 units per acre to be built. He stressed that the OI zoning in the area is inconsistent with the 2010 Plan and the neighboring communities in the area do not need that kind of threat. He urged Council to consider a rezoning study of the entire 155 acre tract.

Upon inquiry of Mr. H.K. Edgerton, President of the NAACP, Mayor Martin said that he did not know of any plans for Housing Authority units in this area.

Mr. George Morosani, property owner of the subject 10 acre tract ~~currently zoned OI~~ tri-zoned, said that he has already lost a substantial amount of money when a developer came in to see about building on the OI portion and was run off by the neighborhood. He felt that this rezoning request would down-zone his property. He has lived in Asheville for 28 years and wants to see it grow, but to allow neighborhoods to rezone someone else's property is not reasonable. He noted that the neighborhood did not even ask him to sign the rezoning petition, even though he would not have signed it. He felt that it was hard to bring new developers into Asheville and show them a piece of property for development and then the neighbors find out about it and try to rezone it to block that developer from building. He felt that he should have the right to do what he wants with his property and if the neighbors disagree, they should buy it from him. He said this tract has it's own private access road which connects with Hendersonville Road and the road does not cross any residential property.

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Ms. Cogburn explained how the districts are interpreted in the zoning ordinance relative to density and number of units.

When Vice-Mayor Field inquired about the new office district in the UDO, Mr., Green said that this area will probably be zoned office, which will allow possibly 6-12 units per acre (not the 32 units per acre as presently allowed in the current OI district). He noted that in the UDO, the current R-2 designation would allow 6 units per acre.

Councilman Cloninger wondered if some type of an agreement could be reached with Mr. Morosani and the property owners until the UDO is adopted.

Mr. Morosani said that he didn't have a problem with the future uses allowed with his property and he would not solicit someone to build apartments on it in the meantime. However, since he does still have a mortgage on the property he may give it back to the owners and he cannot speak for them.

Vice-Mayor Field said that Ms. Laurel Eide, property owner whose property touches the OI zone, expressed to her that she could not sell her property as R-2 residential because buyers had a concern of what could be built in the OI district. Ms. Eide expressed to her that the OI designation devalues her property.

Mr. Morosani said that he might be willing to give Ms. Eide a 50 foot deed restrictive where his OI property touches her R-2 property. He said that he was not going to build on her property line.

Ms. Eide said that they are not against apartments, just the constant threat of the OI district spreading into the area. She said that for the past four years she has been fighting developers who see that there is an OI pocket there and they keep coming back to see if they can get the adjacent property (which is undeveloped) rezoned to OI. She feels if the property remains zoned OI, it will eventually spread into the whole area.

Mr. Richard Green, President of the Coalition of South Asheville Neighborhoods, stressed that the 2010 Plan is the City's planning document and that document has been violated. He felt the rezoning study is warranted and urged Council to send it to the Planning Department for study.

Councilmen Cloninger and Hay supported the studying of the 10 acres ~~OI tract~~ and encouraged the property owners in the area to work together in the interim until the UDO is adopted. They felt that the UDO mapping will probably zone this property office and that might alleviate some of the concerns of the neighbors.

(but not the entire tract)

When Councilman Skalski asked Mr. Morosani if he would file a protest petition if his property was zoned to R-2, Mr. Morosani replied that he would.

Councilman Worley stressed that even if the property is rezoned to R-2 now, it doesn't preclude it from being rezoned again when the UDO public hearings begin.

Councilman Worley moved to deny taking any further action to rezone the 155 acres and that Council initiate a rezoning study of the 10 acre OI tract and direct the Planning staff to begin that rezoning study. This motion was seconded by Councilman Hay.

At the request of Councilman Skalski, City Attorney Slawter explained the criteria for a valid protest petition, and if a valid petition was filed, then a 3/4's vote of Council would be required.

Mr. Richard Green felt that the boundary lines in the 155 acre rezoning petition were drawn in such a fashion that there would not be the possibility of a valid protest petition being filed.

Councilman Worley said that what is really driving this petition is to get the OI tract rezoned and he didn't feel that asking that the 10 acre OI tract be studied was at the expense of the entire neighborhood. He did state that he felt it was unfortunate to use the rezoning petition process in the manner that it was used.

Councilman Worley's motion then carried on a 6-1 vote, with Councilman Skalski voting "no".

STEPHENS-LEE RECREATION CENTER DESIGN PROPOSAL

Mr. Lyle Willis, Contract Administrator, said that this will be consideration of the selection of a final candidate to provide architectural engineering design services for the renovation of the Stephens-Lee Recreation Center.

In January/February 1993, City staff, through a request for proposals process, selected from a pool of architectural firms the firm of Mathews & Glazer Architects P.A., to prepare a feasibility study determining the scope of renovations needed and relative construction budget costs for the Stephens-Lee Recreation Center. This firm worked closely with City Staff and community groups to establish a scope of work and resulting renovation plans for the building. The construction renovations costs were tabulated at that time and were used to determine the 1996-97 budget request. A total of $1,250,000 has been recommended for renovations to the Stephens-Lee Recreation Center for the 1996-97 budget year.

Rather than open the project up for new design proposals, Staff reviewed and drew from the original proposals for the feasibility study phase of this project. Staff recommends the firm of Mathews & Glazer Architects P.A., who did the feasibility study for this project. If the selected architectural firm is awarded a contract, that contract will be based on a proposed design services fee of 9 percent of the total construction costs, or approximately $112,500. (Mathews & Glazer have also conveyed in their proposal letter that they will credit the City $9,000 for the work they have already performed in the development of this project.) In the past we have received design proposals ranging from 8 to 11 percent of the total construction costs, which covers a firm's involvement and operating expenses for their work on that project.

City staff is at a point in the project development process which requires Council approval of an architectural design team in order to enter into an AIA contract and proceed with construction bid documents.

Staff recommends approval of the architectural design firm of Mathews & Glazer Architects P.A., and requests Council to direct the City Manager to enter into contract for that firm's services.

Upon inquiry of Vice-Mayor Field, Mr. Willis explained that Risk Management would have to make sure that the company carried appropriate insurance before the City contracted with the firm.

PHYSICIAN'S REPORT

Mr. John Miall, Risk Manager, briefed the Council on the six month evaluation of the on-site physician program in the Health Services Division.

In February, 1996 Council approved the addition of a part-time physician for the treatment of employees and their families at an hourly rate. It was projected that this would save the City money if non-critical health needs were not paid for through the emergency rooms, and private offices. The physician was also to provide some services on worker's comp injuries.

An independent evaluation of this service for the past six months was done. Council had previously authorized the hiring of Mike McManus as an independent medical consultant for this process. His report indicates that conservatively allowing for the hourly cost of the physician, the City has realized savings of approximately $19,270 in general medical, and comp expenses.

He then highlighted the Health Services Program.

The consultant's report concludes with 4 options for current consideration. They include:

1. Continue physician service as it currently is, and further evaluate savings in 6 months.
2. Terminate the current contract, and take the report under advisement.
3. Expand the physician's hours over the next 6 months to allow greater family participation, and re-evaluate the program at that time.
4. Continue the program as it currently is, and ask the local medical community to respond to an RFP for continuing this service.

Staff recommends a combination of numbers 3 and 4 above, to continue the current service for 6 more months; begin expanding services to families; and through an RFP ask the local medical community for proposals to expand the service to a Point of Service medical service for employees and dependents.

Discussion surrounded the satisfaction of how the program has worked and the substantial savings achieved.

OTHER BUSINESS

City Attorney

Councilman Skalski moved to appoint Robert W. Oast Jr. as the new City Attorney, effective November 18, 1996, and to authorize the Mayor to confirm that appointment in a letter to Mr. Oast. This motion was seconded by Councilman Worley and carried unanimously.

October 15, 1996, City Council Worksession

It was the consensus of Council that the City Council Worksession on Tuesday, October 15, 1996, be held at 4:00 p.m. in Room 623 of the City Hall Building. The N.C. League of Municipalities Annual Conference will be ending that day in Winston-Salem, N.C., and moving the time from 3:00 to 4:00 will assure that a quorum will be present for the worksession.

Theatre Kolesc in Asheville

Vice-Mayor Field said that a group of 29 actors from the Ukraine will be in Asheville on Tuesday, September 24, 1996. She suggested inviting the group to attend the City Council meeting and be recognized.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:10 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - September 24, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Rev. Randy Johnson, Asheville Wesleyan Church in West Asheville gave the invocation.

DAVID E. REYNOLDS

Mayor Martin announced with sadness the death of David E. Reynolds, Executive Director of the North Carolina League of Municipalities.

I. PROCLAMATIONS:

A. RECOGNITION OF THE KOLESO THEATRE TROUPE FROM KIEV, UKRAINE

Mayor Martin welcomed the Koleso Theatre Troupe, which is made up of actors, technicians, directors from the Theatre Company, and three municipal deputies from the City of Kiev, Ukraine.

With the help of interpreters and Ms. Deborah Austin, an exchange of greetings and gifts took place.

B. PROCLAMATION PROCLAIMING OCTOBER, 1996, AS "ASHEVILLE SISTER CITIES MONTH"

Vice-Mayor Field, City Council liaison and member on the Asheville Sister Cities Board, read the proclamation proclaiming October, 1996, as "Asheville Sister Cities Month" in the City of Asheville. She presented the proclamation to Mr. Dennis Hodgson who thanked the Council for their support.

C. PROCLAMATION PROCLAIMING OCTOBER, 1996, AS "LET'S TALK MONTH"

Mayor Martin proclaimed October, 1996, as "Let's Talk Month" in the City of Asheville. He presented the proclamation to Ms. Cheri Britton who briefed the Council on some activities that would be taking place during the month.

D. PROCLAMATION PROCLAIMING SEPTEMBER 29-OCTOBER 5, 1996, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Councilman Worley read the proclamation proclaiming the week of September 29-October 5, 1996, as "Minority Enterprise Development Week" in the City of Asheville. He presented the proclamation to Ms. Roxanne Williams, President of the Minority Business Alliance, who briefed the Council on some activities that would be taking place during the week.

E. PROCLAMATION PROCLAIMING OCTOBER 6-12, 1996, AS "MENTAL ILLNESS AWARENESS WEEK"

Councilman Hay read the proclamation proclaiming the week of October 6-12, 1996, as "Mental Illness Awareness Week" in the City of Asheville. He presented the proclamation to Mr. Lane, President of the Western Carolina Alliance for the Mentally Ill, who thanked the Council for their support in educating people about mental illness.

F. PROCLAMATION PROCLAIMING SEPTEMBER 23-29, 1996, AS "LIONS EYE HEALTH WEEK"

Mayor Martin read the proclamation proclaiming the week of September 23-29, 1996, as "Lions Eye Health Week" in the City of Asheville. He presented the proclamation to Mr. Johnnie Clarke, representative of the Lions Club", who briefed the Council on the importance of eye health.

G. PROCLAMATION PROCLAIMING SEPTEMBER 29-OCTOBER 5, 1996, AS "GREEK HERITAGE WEEK"

Mayor Martin proclaimed the week of September 29-October 5, 1996, as "Greek Heritage Week" in the City of Asheville.

II. CONSENT:

At the request of Councilman Worley, Item J. below, was removed from the Consent Agenda in order to add a better description to the motion.

At the request of Councilman Sellers, Item C. below, was removed from the Consent Agenda for further discussion.

At the request of Mr. Ralph Bishop, Item A. below, was removed from the Consent Agenda for further discussion.

A. APPROVAL OF THE MINUTES OF THE MINI-RETREAT HELD ON SEPTEMBER 6, 1996, THE REGULAR MEETING HELD ON SEPTEMBER 10, 1996, AND THE WORKSESSION HELD ON SEPTEMBER 17, 1996

This item was removed to be discussed separately.

B. RESOLUTION NO. 96-173 - RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE N.C. DEPT. OF ENVIRONMENT, HEALTH AND NATURAL RESOURCES FOR A GRANT TO DEVELOP A TRAIL AT SHILOH PARK

Summary: The consideration of applying for state grant funds to build a trail at Shiloh Park.

Funds are available through the State of North Carolina, Department of Environment, Health and Natural Resources in the Division of Parks and Recreation through the Adopt-A-Trail Program for construction of trails for public use. The City of Asheville wishes to apply for grant funds to build a trail at Shiloh Park.

The Shiloh Park Trail represents the City of Asheville's commitment to provide open space areas that will encourage urban passive park activities for all ages in neighborhood parks. The paved trail will be located around the perimeter of Shiloh Park. The first segment of the trail will be approximately 8' wide and 1,500' in length.

The cost of the project will be a maximum of $7,000. The Parks and Recreation Department is requesting approximately $5,000 in grant funds which would be partially matched by City staff's labor, equipment,

design, planning, and project supervision. Funds for this match are available in the operating budget of the Park Maintenance Division.

Parks and Recreation Department recommends Council authorize the City Manager to apply for and enter into this agreement.

RESOLUTION BOOK NO. 23 - PAGE 306

C. RESOLUTION APPROVING SUBMISSION OF A GRANT REQUEST TO THE PIGEON RIVER FUND FOR THE BROADWAY GREENWAY PROJECT

This item was removed to be discussed separately.

D. RESOLUTION NO. 96-174 - RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE N.C. ADOPT-A-TRAIL PROGRAM FOR 13 ADDITIONAL GRANITE THEMATIC MARKERS FOR THE URBAN TRAIL

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the North Carolina Adopt-a-Trail program in the amount of $2,000. The grant would provide funding for approximately 13 granite markers placed in specific locations in downtown along the Urban Trail to assist walkers to follow the self-guided "trail" walk. The grant will provide covering the costs of the materials, installation and administration for 13 different sites.

The Urban Trail is an historical walking trail composed of 27 stations located throughout downtown with future plans of placing over 200 granite (thematic) markers in specifically designated areas as guided markers for the walkers. Over the past three years, funds have been received by private donors toward the Urban Trail and as of this time, approximately 72 granite markers have been donated and installed.

If the grant is funded, it will cover the cost of 13 granite markers. We are pursuing other funding sources for the balance of the markers.

The North Carolina Adopt-a-Trail grant requires no matching cash for the grant. However, extensive volunteer support has been and will be available from the Urban Trail Committee. City Development staff will also assist through the process.

The Urban Trail Committee and the City Development staff recommend submission of this grant to the North Carolina Adopt-a-Trail program.

RESOLUTION BOOK NO. 23 - PAGE 307

E. RESOLUTION NO. 96-175 - RESOLUTION AUTHORIZING PARTICIPATION WITH THE ASHEVILLE PARTNERS IN HOME OWNERSHIP

Summary: The City of Asheville will join with other public and private sector organizations to form a local partnership which is consistent with the National Home Ownership Strategy.

The U. S. Dept. of Housing & Urban Development is encouraging the formation of local home ownership partnerships to increase home ownership by eight million across the nation. Expanding home ownership will strengthen the nation's communities and expand the economy.

This resolution contains a goal to increase the percentage of home ownership in Asheville to 64% by the year 2000. This would be an increase of seven percentage points or 1,990 new home buyers. The resolution also contains a description of specific actions to be

undertaken over the next four years. Additional funding resources will be identified, the development permit process will be streamlined for affordable home ownership and a task force of private lenders, home builders, non-profits, realtors, local government, etc., will be formed to recommend additional steps to increase home ownership opportunities.

Community Development staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 23 - PAGE 308

F. RESOLUTION NO. 96-176 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PADGETT & FREEMAN ARCHITECTS, P.A., TO PROVIDE ARCHITECTURAL/ENGINEERING DESIGN SERVICES TO RENOVATE THE OLD WATER MAINTENANCE BUILDING

Summary: The consideration of the selection of an architectural/engineering firm to provide design services to renovate the Old Water Maintenance Building in Asheville, North Carolina.

In an effort to renovate the Old Water Maintenance Building at 147 S. Charlotte St. for use by the Asheville City School System, whose existing offices are being displaced by renovations at the Municipal Building, a request for proposal process was implemented to solicit architectural/engineering firms to submit proposals for design services in regard to the renovation of the above-stated.

Requests for proposal were submitted to 16 architectural/ engineering firms, four of which were from certified minority businesses. A committee comprised of four City staff was established to review the proposals received for this project. Group members were Dick Meehan, Superintendent of Parks and Public Facilities; Mike Brookshire, Civil Engineer; Al Kopf, Landscape Architect; and Lyle Willis, Contract Administrator. This request for proposal committee received three proposal submittals, none of which were from certified minority businesses.

The request for proposal committee met to review all proposals. Criteria used in the review process were set up in a matrix system designed to evaluate each of the firms based on experience, quality of work, experience with and quality of projects of similar scope; and each firm's internal processes addressing procedures for: site analysis, cost control, project management, and structural evaluation. A numerical value was assigned to each of these areas and the two firms with the highest score were requested to come in for an in-depth interview covering issues ranging from design experience to extent of staff involvement with this project.

Upon the conclusion of the interview process, one firm was selected as the best choice for this project.

Staff recommends approval of the firm Padgett & Freeman Architects PA, for this project and requests Council approval to direct the City Manager to enter into an architectural/engineering contract for design services to renovate the Old Water Maintenance Building.

RESOLUTION BOOK NO. 23 - PAGE 309

G. RESOLUTION NO. 96-177 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 1996 GREEK FESTIVAL

Summary: The purpose of this resolution is allow alcoholic beverages at Asheville's 10th Annual Greek Festival.

The N.C. Gen. Stat. section 18B-300(c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on public streets, and on property owned, occupied or controlled by the City. The City Council of the City of Asheville has adopted an ordinance pursuant to that statutory authority. That ordinance, Section 11-11 in the Code of Ordinances, provides that the City Council may adopt a resolution making other provisions at special event or community festival. Asheville's 10th Annual Greek Festival Board, Holy Trinity Greek Orthodox Church and the Parks and Recreation Department recommends that possession and consumption of malt beverages and/or unfortified wine be allowed at Asheville's 10th Annual Greek Festival.

The Parks and Recreation Department recommends that City Council adopt a resolution allowing the possession and consumption of malt beverages and/or unfortified wine at Asheville's 10th Annual Greek Festival.

RESOLUTION BOOK NO. 23 - PAGE 310

H. RESOLUTION NO. 96-178 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MATHEWS & GLAZER ARCHITECTS, P.A., TO PROVIDE ARCHITECTURAL/ENGINEERING DESIGN SERVICES FOR RENOVATIONS TO THE STEPHENS-LEE RECREATION CENTER

Summary: Consideration of the selection of a final candidate to provide architectural engineering design services for the renovation of the Stephens-Lee Recreation Center.

In January/February 1993, City staff, through a request for proposals process, selected from a pool of architectural firms the firm of Mathews & Glazer Architects P.A., to prepare a feasibility study determining the scope of renovations needed and relative construction budget costs for the Stephens-Lee Recreation Center. This firm worked closely with City Staff and community groups to establish a scope of work and resulting renovation plans for the building. The construction renovations costs were tabulated at that time and were used to determine the 1996-97 budget request. A total of $1,250,000 has been recommended for renovations to the Stephens-Lee Recreation Center for the 1996-97 budget year.

Rather than open the project up for new design proposals, Staff reviewed and drew from the original proposals for the feasibility study phase of this project. Staff recommends the firm of Mathews & Glazer Architects P.A., who did the feasibility study for this project. If the selected architectural firm is awarded a contract, that contract will be based on a proposed design services fee of 9 percent of the total construction costs, or approximately $112,500. (Mathews & Glazer have also conveyed in their proposal letter that they will credit the City $9,000 for the work they have already performed in the development of this project.) In the past we have received design proposals ranging from 8 to 11 percent of the total construction costs, which covers a firm's involvement and operating expenses for their work on that project.

City staff is at a point in the project development process which requires Council approval of an architectural design team in order to enter into an AIA contract and proceed with construction bid documents.

Staff recommends approval of the architectural design firm of Mathews & Glazer Architects P.A., and requests Council to direct the City Manager to enter into contract for that firm's services.

RESOLUTION BOOK NO. 23 - PAGE 312

I. **RESOLUTION NO. 96-179 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN APPROPRIATE AGREEMENTS TO CONTINUE THE CITY OF ASHEVILLE'S ON-SITE PHYSICIAN PROGRAM, TO RE-EVALUATE THE PROGRAM IN SIX MONTHS, AND TO ASK THE LOCAL MEDICAL COMMUNITY TO RESPOND TO A REQUEST FOR PROPOSALS FOR CONTINUING THIS SERVICE**

Summary: In February, 1996 Council approved the addition of a part-time physician for the treatment of employees and their families at an hourly rate. It was projected that this would save the City money if non-critical health needs were not paid for through the emergency rooms, and private offices. The physician was also to provide some services on worker's comp injuries.

An independent evaluation of this service for the past six months was done. Council had previously authorized the hiring of Mike McManus as an independent medical consultant for this process. His report indicates that conservatively allowing for the hourly cost of the physician, the City has realized savings of approximately $19,270 in general medical, and comp expenses.

He then highlighted the Health Services Program.

The consultant's report concludes with 4 options for current consideration. They include:

1. Continue physician service as it currently is, and further evaluate savings in 6 months.
2. Terminate the current contract, and take the report under advisement.
3. Expand the physician's hours over the next 6 months to allow greater family participation, and re-evaluate the program at that time.
4. Continue the program as it currently is, and ask the local medical community to respond to an RFP for continuing this service.

Staff recommends a combination of numbers 3 and 4 above, to continue the current service for 6 more months; begin expanding services to families; and through an RFP ask the local medical community for proposals to expand the service to a Point of Service medical service for employees and dependents.

RESOLUTION BOOK NO. 23 - PAGE 313

J. **MOTION DIRECTING THE PLANNING & ZONING COMMISSION TO CONSIDER APPROPRIATE ZONING OF THE OI PORTION OF AN APPROXIMATELY 10 ACRE TRACT NEAR HENDERSONVILLE ROAD**

This item was removed to be discussed separately.

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Sellers moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Skalski and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2317 - BUDGET AMENDMENT REGARDING STRUCTURAL ANALYSIS OF HOPKINS CHAPEL

Summary: The National Trust for Historic Preservation will grant HRC $2,084 for a structural analysis of Hopkins Chapel.

The Historic Resources Commission (HRC) and the Preservation Society of Asheville and Buncombe County are working with the members of Hopkins Chapel AME Zion Church to save the church from collapse. The National Trust for Historic Preservation will grant HRC $2,084 for an in-depth structural analysis and to develop a permanent stabilization plan. Preservation North Carolina and The Covington Foundation have agreed to grant the Preservation Society of Asheville and Buncombe County an additional $8,500 for the structural analysis. Both HRC and the Preservation Society believe that Ellen Harris, William Westcott and Dave Fischetti should conduct the analysis and develop a stabilization plan. Mr. Fischetti is known throughout the nation for his work with historic wooden framed structures.

In January 1995, a structural engineer evaluated the condition of the church and recommended the building not be occupied unless temporary shoring was installed. At that time, the congregation elected to move its worship services to another location. Since then the roof has shifted, the floor has dropped, and the walls have thrusted outward. The wood pilasters supporting the scissor trusses are rotted and water logged. In some locations the floor girders (which pocket into the masonry walls) ends have rotted off and the floor is unsupported.

During the past month the church has undergone emergency stabilization, pigeon waste removal, ceiling boards have been removed to allow for a complete investigation of the roof trusses, the pews and stained glass windows have also been removed.

Only a few structures of historic significance to the African-American community remain. Changes in the social, political, and economic areas resulted in the destruction of some area landmarks. If this continues to happen, future generations may suffer from a lack of identity that comes from not seeing evidence of one's roots. "Every child needs a sense of place, a way to identify personally with man-made structures, neighborhoods and communities of yesterday, as well as with the feelings and lifestyles of their inhabitants." Richard C. Balaban and Alison Igo St. Clair.

Hopkins Chapel's rich history and central position in the African-American community is essential to understanding and keeping alive the heritage of African-Americans.

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B. ORDINANCE NO. 2318 - BUDGET AMENDMENT TO REFLECT THE TRANSFER OF COMPLETED CAPITAL PROJECTS TO THE FIXED ASSET LEDGER, TO INCREASE THE APPROPRIATIONS FOR PIPELINE REPLACEMENT, TO INCREASE THE APPROPRIATION FOR AM/FM MAPPING, AND TO DELETE THE BEAUCATCHER RESERVOIR PROJECT

Summary: This budget amendment is in the amount of $46,299,100. By Resolution No. 92-17 dated May 19, 1992, the Authority authorized and budgeted for various capital projects to be funded by City Water Bond proceeds in the 29 Fund.

This revision is a housekeeping amendment to reflect the transfer of completed projects to the City's Fixed Asset Ledger. It also reprograms funds from savings on projects into the following projects:

- Pipeline Replacement Program Phase I - The Policies/Priorities Committee approved the final Change Order to this contract which will increase the budget $31,544. Attached are the minutes from the Committee's meeting.

- Pipeline Replacement Program Phase III - This project is expected to be bid shortly. In order to balance the ordinance it is recommended that the appropriation for Pipeline Replacement III be increased $171,405.

- AM/FM System - The system is operational and negotiations are beginning for the Final Change Order. Scope changes have occurred since project initiation. Staff is recommending that the budget be increased $100,000 and adjusted downward after the final change order is approved.

Staff recommends approval of a Budget Ordinance amending and restating Capital Project Ordinance 92-17.

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C. **ORDINANCE NO. 2319 - BUDGET AMENDMENT TO REFLECT THE TRANSFER OF COMPLETED CAPITAL PROJECTS TO THE FIXED ASSET LEDGER, TO APPROPRIATE FUNDING FOR THE SOUTH BOOK WATER LINE EXTENSION, AND TO REDUCE CONTINGENCY**

Summary: This budget amendment is in the amount of $4,682,604. By Resolution 82-25 dated October 5, 1982, the Authority authorized and budgeted for various capital projects to be funded by Investment Earnings, Contributions From Other Funds, and Appropriated Fund Balance.

This revision is a housekeeping amendment to reflect the transfer of completed projects to the City's Fixed Asset Ledger. It also budgets the Southbrook Master Plan extension project on Mills Gap Road as approved by the Asheville-Buncombe Water Authority on August 20, 1996. This project is included in the Authority's Water Distribution Master Plan and is required to supply water to the South Brook Subdivision off Mills Gap Road in South Buncombe. The Authority agreed to contribute $27,700 for the cost of extending an 8-inch waterline, as proposed in the Master Plan.

Staff recommends approval of a Budget Ordinance amending and restating Capital Project Ordinance 82-25.

ORDINANCE BOOK NO. 16 - PAGE 94

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and only reading.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR FURTHER DISCUSSION

APPROVAL OF THE MINUTES OF THE MINI-RETREAT HELD ON SEPTEMBER 6, 1996, THE REGULAR MEETING HELD ON SEPTEMBER 10, 1996, AND THE WORKSESSION HELD ON SEPTEMBER 17, 1996

Mr. Mayor and other members of Council, my name is Ralph Bishop and I'm a resident of the City of Asheville and I'd like to make a few comments on the minutes. It says here, summary statement: The minutes of the City Council mini-retreat held on September 6, 1996, the formal meeting held on September 10, 1996, and the worksession held on September 17, 1996, need to be reviewed and approved. Has anybody on the City Council read those minutes? Were they kept in verbatim as set forth in 160A-72 of the State law?

Mayor Martin - It's not required verbatim.

Bishop - I'm not asking him, I'm asking the City Council.

Mayor - Well I'm telling you.

Bishop - If I wanted some flapdoddle, I'd ask him.

Mayor - Okay, that's enough.

Bishop - I want to read those, wait a minute.

Mayor - You're about to be.

Bishop - I want to read the minutes. If it's not by State law I want them because G.S. 132.

Mayor - The State law does not require. Mr. Bishop,

Bishop - Wait a minute. Let me talk. I'm talking.

Mayor - I'm answering your question. Mr. Bishop, the State law does not require verbatim minutes. They do require full and accurate minutes and that's exactly what we keep in this City Council. Now, do you have anything of substance, please say so.

Bishop - Do you know what the word "accurate" means?

Mayor - Mr. Bishop, this is not a.

Bishop - It says free from error. That means in verbatim. If you don't know what you're talking about, why don't you keep your mouth shut.

Mayor - All right, you're finished.

Bishop - Am I entitled to a copy of those records to read them as set forth in State law 132.6?

Mayor - You may have a copy of the minutes.

Bishop - In verbatim?

Mayor - As they are stated, as they were recorded.

Bishop - You're still going along with that Nazi Germany stuff. Making your own laws as you go along, is that right?

Mayor - Mr. Bishop, if you don't cease and desist now, I'll have you escorted from the room.

Bishop - You won't have me escorted. You might have me arrested.

Mayor - I'll have you escorted from the room.

Bishop - No, you won't have me escorted.

Mayor - Don't test me.

Bishop - If they lay a hand on me, I'll get them for assault and battery. If I'm under arrest, I'll go with them. If not, don't threaten me.

Mayor - Will you escort Mr. Bishop?

Bishop - Don't threaten me.

Mayor - Take him from the room.

Bishop - I'm not going. Am I under arrest?

Officer J.D. Summey - You are under arrest.

Bishop - That's good, let's go. Let's go then. As long as I'm arrested.

Mayor - I'm sorry, this occurs occasionally. Mr. Bishop gets off on a tangent. It's regrettable, but sometimes we have to take steps to maintain decorum in the room. Okay, we need to move forward with the resolutions & motions minutes - approval of the minutes - Item A. May I have a motion to accept those?

Councilman Cloninger - I move adoption of the minutes.

Councilman Worley - I second the motion.

Mayor - All those in favor say aye.

Mayor Martin - aye
Vice-Mayor Field - aye
Councilman Cloninger - aye
Councilman Hay - aye
Councilman Sellers - aye
Councilman Skalski - aye
Councilman Worley - aye

Mayor Martin - Opposed, like sign.

RESOLUTION NO. 96-180 - RESOLUTION APPROVING SUBMISSION OF A GRANT REQUEST TO THE PIGEON RIVER FUND FOR THE BROADWAY GREENWAY PROJECT

The Planning and Development Department has applied for a grant to be used for the Broadway Greenway.

Planning staff has applied for The Pigeon River Fund Grant. The deadline for this grant was August 15, 1996. Staff did not request Council's permission beforehand due to a quick deadline. The Pigeon River Fund exists to improve the streams and rivers of Haywood, Buncombe and Madison Counties. One area of funding is for the creation of greenways along creeks and streams. The Broadway Greenway proposal met

all the criteria necessary for this grant. Staff requested funds (up to $20,000) to hire a professional land conservation organization (such as The Trust for Public Land or The Conservation Fund) to help secure the right of way along the greenway. There is no monetary commitment necessary from the City if we were to receive these funds. The Planning and Development requests Council's approval of this grant request.

Staff recommends the concurrence of City Council in the application for this grant for this grant for the Broadway Greenway.

Mr. Richard Nantelle asked if the funding up to $20,000 was specifically earmarked for land acquisition or if a portion of these funds could be used for the overall long range plan of the greenway. Ms. Maggie O'Connor, HRC Director, responded that this money is for education and also to hire a professional land conservation organization to help secure the right of way along the greenway. This organization will not be doing any long range planning.

Mr. Nantelle said that there are various members of our community who would like to participate in a committee to help prepare and implement this greenway. He offered the names of John and Renee Lantzius, Mary Webber and Luther Smith. He felt that Asheville had many valuable resources in our community that would be willing to come forward and lend their efforts toward the overall program.

Vice-Mayor Field felt that all three individuals would be valuable resources on the committee. She said that the City Council Greenway Committee will be expanding and Council will open it up to all members of the community.

Councilman Hay agreed with Vice-Mayor Field saying that this grant is just a piece in the process. He did affirm that the Council Committee wants to get the community together and help define that greenway.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Cloninger moved for the adoption of Resolution No. 96-180. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 314

MOTION DIRECTING THE PLANNING & ZONING COMMISSION TO CONSIDER APPROPRIATE ZONING OF THE OI PORTION OF AN APPROXIMATELY 10 ACRE TRACT NEAR HENDERSONVILLE ROAD

Councilman Worley moved to request the Planning & Zoning Commission to consider the appropriate zoning for the OI portion of an approximately 10 acre tract identified as PIN No. 9655.09-15-2013 on Hendersonville Highway. This motion was seconded by Councilman Sellers and carried unanimously.

Ms. Laurel Eide said it was her understanding that Council would be voting on rezoning the both portions of two tracts that had OI zoning on them - the northern portion (approximately 5 acres) which currently has a business on it and also the approximate 5 acres on the tract that is tri-zoned.

By use of a map, Mr. Gerald Green, Senior Planner, showed Council the area in question.

Councilman Hay said that he was not in favor of rezoning the northern portion of the 10 acre tract that had OI zoning on it because it currently has a business on it.

Ms. Trisha Noel, resident of Oak Forest, stated that OI abutting R-2 property is not in compliance with the 2010 Plan and they were told there was going to be a consideration of rezoning both OI tracts. She wondered if leaving the northern portion zoned OI would be setting a precedent for an adjacent property owner to request their property be rezoned to OI.

Vice-Mayor Field didn't think that Council could rezone the northern 10 acre tract which had OI zoning on it because the OI portion does have a business on it and rezoning it would make that business a non-conforming use.

Councilman Worley said that the threat comes from the tri-zoned 10 acre tract. He said that there is no current development threat, or anticipated or foreseen development threat from the one that has an OI use on it. But, whatever Council does right now will be changed and reviewed as a part of the UDO which is only approximately six months off. He also stated that he felt there was no precedent being set for other OI rezoning requests because he strongly suspected that no member of Council would vote to rezone an adjoining piece to OI. Once again, he said the UDO will result in a total rezoning, hopefully bringing that whole area much more in compliance with the 2010 Plan.

Ms. Eide urged Council to rezone both tracts because the OI tracts don't belong in this low density area. She reminded Council that the neighborhood originally wanted the entire 155 acres rezoned but Council reduced that request to 10 acres. She now feels that Council has reduced their request even further to just 5 acres because they are not asking that the 10 acre northern portion which also has OI zoning on it be studied.

Mayor Martin said that Council is trying to address the problem which is the tri-zoned 10 acre tract which has a portion of it zoned OI, since the neighborhood does not have a problem with the existing business on the northern portion of the OI tract.

Councilman Cloninger said that when he and other members of Council met with area residents it was expressly told to them that there was not a concern about the northern part of the property zoned OI that currently has a business on it.

An Oak Forest resident mentioned that she has given Council some mean-spirited letters that the residents of Oak Forest received earlier in the year. Because it was such a scare tactic letter, people did sign the petition. Even though she did not sign the petition, she is aware of people who did sign that wish they had not. She felt the petitioners just do not want low income there and she feels that Asheville does need low income housing.

Mayor Martin felt that rezoning properties from R-1 to R-1A would be down-zoning.

Councilman Hay said that what Council did today was what the South Asheville residents needed Council to do and that was to get a review of that portion of the 10 acre tri-zoned tract which has OI zoning on it.

Councilman Worley again said that he thought it was very regrettable and unfortunate the way that this petition was presented

because he felt some people were mislead and it actually called for the down-zoning from R-1 to R-1A of all of Oak Forest. He said this Council recognized the need to look at the particular tract that was causing the problem and driving the controversy and Council has done that.

Councilman Skalski said that he wanted to make it clear that his position is that he was in favor of a small area plan for the 155 acres. He moved that instead of just calling for a study of a portion of the 10 acre tri-zoned tract which has OI zoning on it, that a zoning study of the whole area take place. He felt that the area needs it and he thinks that everyone on Council agrees that it needs it - the only difference is that he thinks we should not postpone it. He felt that it should be done now. This motion was seconded by Councilman Sellers.

Councilman Worley raised a point of order. He felt it was correct and proper to have the minutes reflect Councilman Skalski's position, but wasn't sure if the motion was appropriate.

City Attorney Slawter said that the original portion related to the OI portion of one particular lot did not reference the rest of the 155 acres at all. If Councilman Skalski wants to make a motion with regard to the entire 155 acres, he felt that would be appropriate.

Councilman Hay felt that Council was faced with a choice of studying the entire 155 acres or proceeding with the UDO. He felt that with the earlier motion, Council is addressing the primary concerns of the neighborhood and also staying on tract with the UDO. Councilman Cloninger agreed.

Councilman Worley said that it has been Council's clear statement that the UDO is a very high priority and to stop staff from working on the UDO and putt them on the study of a massive tract at this point in time, when we are so close to finishing the UDO, is entirely inconsistent with one of Council's number one priorities.

Councilman Skalski reminded Council that several months ago, this property was rezoned from residential to OI in direct violation of the 2010 Plan. The people who bought property in the area bought it with the understanding of what was out there and then someone came along and got it rezoned to OI. The Council has agreed that it was not in compliance with the 2010 Plan and now there is a threat of up to 300 apartments being built on this OI property.

Councilman Cloninger said that this is the very area that City Council is addressing with their rezoning request. He believed in protecting the integrity of our neighborhoods and he believed if we granted the request to rezone the 155 acres, we would be doing a disservice to neighborhoods. He felt Council would be down-zoning a substantial area in which property is currently zoned R-1 to R-1A. He did not feel that would be taking a step to protect the integrity of the neighborhood.

Upon inquiry of Vice-Mayor Field, City Attorney Slawter explained what spot zoning is and it was his opinion that when that portion of the tri-zoned 10 acre tract was zoned OI, it was not spot zoning.

Councilman Worley said that a small area plan has not been requested. The only thing before the Council has been a rezoning petition. He said a small area plan is very different but would also take a good deal of resources from the staff. Again, this area will be dealt with in the UDO and we hope that is just a few months away.

Vice-Mayor Field said that she would support a small area plan for that part of the community. However, it needs to take its place in line behind the several other small area plans already in the works. We would first have to finish the Factory Hill Plan and the Charlotte Street Plan. Then Council has promised that the West Asheville Census Tract 10 area would be next. She had no problem with doing a small area plan for this area when the time comes. There may very well need to be some transitional overlay there, but we need to have the UDO in place in order to do it.

Mayor Martin then asked for a vote on Councilman Skalski's motion. The motion failed on a 2-5 vote, with Mayor Martin, Vice-Mayor Field, Councilmen Cloninger, Hay and Worley voting "no".

Comments by Mr. H.K. Edgerton

When Mr. H.K. Edgerton asked to discuss an item on the Consent Agenda (resolution authorizing participation with the Asheville Partners in home ownership), Mayor Martin informed him that the Consent Agenda had already been passed and he would need to contact the City Manager to discuss any concerns he may have.

Mr. Edgerton stressed that he has tried to bring a concern from the NAACP to the attention of Council last week and was put off. He now has a statement from them concerning that item and the Council should have had this information prior to taking action on this issue.

Councilman Hay said that it was unfortunate that Mr. Edgerton missed the opportunity to address this issue at the meeting today. However, if he is suggesting that Council is deliberately moving ahead with this despite what the NAACP wants to tell them, then he's mistaken. Council is interested in hearing what the NAACP has to say about this issue and other issues. Councilman Hay did note that Mr. Edgerton was told last week that if he had a concern, he could address that concern to the City Manager. Also, he, personally, stopped Mr. Edgerton and asked what the concern was about and Mr. Edgerton replied that he would get back to him about it, that there's an issue they needed to discuss. That was the only conversation they had about it.

Mr. Edgerton said that if Council decides to move forward with this item, don't complain to him that Council had something thrown in their face and they didn't have an opportunity to look at it. He suggested that someone contact him about this.

(Note from City Clerk: Mr. Edgerton did come back into the Council meeting and handed the Clerk a letter, copies of which were given to Council after the meeting.)

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO DESIGNATING THE STEPHENS-LEE COMMUNITY CENTER AS A LOCAL HISTORIC LANDMARK

ORDINANCE NO. 2320 - ORDINANCE DESIGNATING THE STEPHENS-LEE COMMUNITY CENTER AS A LOCAL HISTORIC LANDMARK

Mayor Martin opened the public hearing at 6:20 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Maggie O'Connor, Historic Resources Commission Director, said that the Stephens-Lee Alumni Association, the Historic Resources Commission of Asheville & Buncombe County ("HRC"), and the Parks & Recreation Department are seeking the Stephens-Lee Community Center to become a local historic landmark.

On July 10, 1996, HRC held a public hearing regarding the designation of the Stephens-Lee gymnasium and former high school site. Notice was published in the paper and property owners within 150 feet of the subject property were notified on June 28, 1996. At the public hearing, all comments received in writing and orally were in support of the landmark designation.

When a property is designated historic, restrictions are placed on the property and to any exterior improvements. Any modification to the structures or land must receive a Certificate of Appropriateness from the HRC and all improvements must follow the Secretary of the Interior's Standards for Rehabilitation.

The HRC, by unanimous vote, recommends adoption of the ordinance.

Since Asheville is a Certified Local Government, the N.C. Dept. of Cultural Resources, State Historic Preservation Office ("SHPO"), has the right to comment on any nomination for local landmark designation. The SHPO concurs with HRC's recommendation.

Mayor Martin closed the public hearing at 6:23 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2320. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2320 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 96

B. PUBLIC HEARING RELATIVE TO CLOSING ELLIOT STREET AND A PORTION OF GARFIELD STREET BETWEEN THOMPSON STREET AND DECATUR STREET

RESOLUTION NO. 96-181 - RESOLUTION CLOSING ELLIOT STREET AND A PORTION OF GARFIELD STREET BETWEEN THOMPSON STREET AND DECATUR STREET

Mayor Martin opened the public hearing at 6:24 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Suzanne Molloy, Assistant Director of Public Works, said that a petition was received from Biltmore Business Center requesting that Elliot Street and a portion of Garfield Street be permanently closed to public use.

The petition received includes the signature of Biltmore Business Center. Biltmore Business Center owns all of the property with frontage on Elliot Street and the portion of Garfield Street that have been petitioned to be closed. Property owners to be affected by the closing

of the street have been notified by Mr. E. Benson Slosman, owner of Biltmore Business Center.

There will be a retention of easements for the City of Asheville, the Metropolitan Sewerage District and Carolina Power & Light Company for the full length and width of Elliot Street and Garfield Street to be closed for maintenance of existing public utilities.

Mayor Martin closed the public hearing at 6:26 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Sellers moved for the adoption of Resolution No. 96-181. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 315

C. PUBLIC HEARING TO REZONE 112 LOTS IN THE WILSHIRE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

Due to an error in notifying the public, Vice-Mayor Field moved to reschedule this public hearing until October 8, 1996. This motion was seconded by Councilman Worley and carried unanimously.

D. PUBLIC HEARING TO REZONE 14 LOTS IN THE BURTON STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CS COMMERCIAL SERVICE

Due to an error in notifying the public, Vice-Mayor Field moved to reschedule this public hearing until October 8, 1996. This motion was seconded by Councilman Worley and carried unanimously.

E. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE TO CLARIFY THE OPEN SPACE REQUIREMENTS IN THE OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 2321 - ORDINANCE TO AMENDMENT THE ZONING ORDINANCE TO CLARIFY THE OPEN SPACE REQUIREMENTS IN THE OI OFFICE INSTITUTIONAL DISTRICT

Mayor Martin opened the public hearing at 6:27 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that at the Planning & Zoning Commission ("Commission") meeting on September 4, 1996, the Commission reviewed and recommended approval of a wording amendment to the City's Zoning Ordinance which better defines open space requirements in the OI Office Institutional District.

Currently open space must be reserved in the OI District when any new building is constructed. The amount of open space required is based upon a percentage of the floor area of all buildings proposed for the site. There is no distinction between habitable floor area and non-habitable floor area, meaning that the floor area of storage areas, equipment rooms, and parking decks are included in the calculation of open space required. This method of calculating open space requirements penalizes developers for incorporating parking into their buildings

(parking garages, underground parking, etc.) and seems to promote surface parking. The open space standards for residential uses found in the Zoning Ordinance state that the open space is for residents of the development, and the open space required is based upon the number of residential units. The State Building Code defines gross floor area as habitable space and excludes parking, storage, and equipment areas.

The proposed ordinance amendment would require the amount of open space reserved to be based upon habitable floor space. Parking decks and garages, storage areas, and equipment areas would be excluded from the calculations used to determine the open space required. The amendment would make the open space requirements in the OI District more compatible with the standards for residential uses. Defining floor area as habitable floor area would make this definition similar to the building code definition of floor area. The revised standards would help promote the use of parking decks and the incorporated of parking into buildings.

The Commission unanimously recommended approval of the wording amendment. The Planning & Development Department also recommended approval of the amendment.

Mayor Martin closed the public hearing at 6:30 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2321. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, Ordinance No. 2321 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 99

F. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL AND VARIANCE REQUEST TO THE STREET TREE REQUIREMENTS FOR RENOVATIONS AND ADDITIONAL TO JOHNSTON ELEMENTARY SCHOOL

Mayor Martin opened the public hearing at 6:31 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this proposed project is for renovations to classrooms, administrative offices, and the library for the existing elementary school located at 230 Johnston Boulevard in West Asheville. He said that on August 5, 1996, the Planning Department received the site plan for the renovations to the existing elementary school. The proposed new construction will be 22,600 square feet of classrooms, administrative offices, and library. The site plan was presented to the Technical Review Committee on August 12, 1996, for their comments.

On September 4, 1996, the Commission reviewed the site plan. The only concern addressed came from the Commission with regards to bus traffic flow and visibility around the required street trees. After a discussion, the Commission requested that City Council grant a variance to the street tree requirement and allow the architect to propose a landscaping alternative that meets the intent of the ordinance and provides adequate site visibility for the buses.

The Commission voted unanimously to approve the project with the request for the variance of the street tree requirements.

Mr. Ownbey said that he and the architect have visited the site and agreed that it would be beneficial for the fence to be lowered to three feet and bushes be planted in place of the three street trees.

By use of the site plan, Mr. Ownbey showed an adjoining property owner how he would be affected by the group development.

Mayor Martin closed the public hearing at 6:35 p.m.

Councilman Skalski moved to approve the site plan and grant the variance request to the street tree requirements for renovations and additions to Johnston Elementary School. This motion was seconded by Councilman Worley and carried unanimously.

IV. UNFINISHED BUSINESS:

A. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A NON-WARRANTY DEED TO DAWN H. LANTZIUS

Mayor Martin said that this matter has previously come before the Council on August 13, 1996, and postponed to give the property owners in the area time within which to discuss this issue.

Councilman Cloninger asked that he be excused from voting because his firm, of which he is a partner, represents Ms. Lantzius. Therefore, Councilman Worley moved to excuse Councilman Cloninger from voting due to a conflict of interest. This motion was seconded by Councilman Sellers and carried unanimously.

City Attorney Slawter said that he has been contacted by the attorneys who are negotiating these transactions between the property owners adjacent to the alley and they have requested this matter be postponed until October 22, 1996.

Councilman Worley moved to postpone this matter until October 22, 1996. This motion was seconded by Vice-Mayor Field and carried unanimously.

V. NEW BUSINESS:

VI. OTHER BUSINESS:

A. COMMENTS BY MR. JERRY RICE

Mr. Jerry Rice addressed Council with several concerns and suggestions relating to a regional water source.

B. CLAIMS

The following claims were received by the City of Asheville during the week of September 6-12, 1996: Advanced Auto (Water), Frances Mosseller (Streets), Mary Miller (Civic Center), Bell South (Water) and Tommy Atkins (Streets).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:03 p.m.

Magdalen Bourbeau
CITY CLERK

MAYOR

Tuesday - October 1, 1996 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman M. Charles Cloninger

BELE CHERE REPORT

Mr. Irby Brinson, Parks & Recreation Director, said that the Asheville Parks and Recreation Department is requesting authority to conduct an in-depth study of Bele Chere by soliciting public input which will result in the development of a strategic plan.

The 1997 Bele Chere will represent the 19th year that this festival has been in existence. Over that period of time, Bele Chere has continued to grow and to be successful. Even though Bele Chere has been successful, the staff of Parks and Recreation feels that it would be beneficial to evaluate the current status of the festival and to develop a strategic plan for its future. Several controversial issues have surfaced over the past year which need to be addressed in order to improve the quality of the festival. In order to solicit as much input as possible from the community, the Parks and Recreation staff proposes to conduct a series of community forums based upon a format which will be established by staff. The Parks & Recreation Department will publicize the proposed meetings in order to obtain input from all interested parties. The purpose of the community forums will be to allow anyone who has an interest in Bele Chere to give staff feedback to help mold the festival's future. It is anticipated that these community forums will occur during October and November of 1996. The Parks and Recreation staff will then report back to City Council in late December of 1996 or early January of 1997 with recommendations.

The Parks and Recreation Department requests City Council approval in developing a strategic plan for Bele Chere.

It was the consensus of Council to appoint Tommy Sellers to the Bele Chere long range steering committee.

Upon inquiry of Vice-Mayor Field, Mr. Brinson said that the study would be done in-house.

Vice-Mayor Field felt that this strategic plan is very important because Bele Chere touches every part of the community. She also felt the plan should be long range, contain a well balanced view, and as in depth as possible.

Mayor Martin suggested that the Bele Chere festival be looked at every five years.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place the item on the next formal City Council agenda.

UPDATE ON COMMUNITY ORIENTED GOVERNMENT AND LOGO APPROVAL

Ms. Robin Westbrook, Public and Community Involvement Coordinator, said that at the City Council mini-retreat recently, Council expressed the desire to approve the logo that was being designed for Community Oriented Government. This logo has been completed and is ready for City Council approval.

We will also have the West Asheville Community Center set up as a Community Access Center by the City Council Community Meeting on October 29, 1996. City staff will be available from 3:00 p.m. - 7:00 p.m., just prior to the community meeting, for questions and information. Also at 6:00 p.m. Councilmen Cloninger and Worley will be available to answer questions regarding the Unified Development ordinance.

As a part of the community meeting, a short presentation will be given to explain the concept of Community Oriented Government and the types of information that will be available at the Access Center. We will also use this opportunity to survey those attending the meeting to find out what information/programs they would like to see in the building.

It is the recommendation of staff that the City Council approve the logo for Community Oriented Government.

Vice-Mayor Field said that the State Department of Commerce is offering grants for cities to get involved with technologies and she has been told that they felt Asheville's Community Oriented Government sounded like a positive possibility for an application. She said that the City would be required to match the grant $1 for every $2 received and the grant application would be in the amount of $30,000. She said that she would be happy to pass the information onto staff for their review.

Upon inquiry of Councilman Worley, Ms. Westbrook said that the logo more than likely would remain black and white.

Ms. Westbrook answered questions from Council regarding the information that may be available on templates that might assist other groups in obtaining community input.

Vice-Mayor Field suggested a minor adjustment to the logo which all of Council felt was appropriate.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place the item on the next formal City Council agenda.

CITY BUSINESS & DEVELOPMENT COMMISSION

City Clerk Burleson said that City Council needs to appoint two members to the City Business and Development Commission.

On August 13, 1996, City Council adopted Ordinance No. 2309 establishing the City Business and Development Commission.

The composition of that Commission consists of 13 members from various groups in addition to two members appointed by the City Council. One City Council appointee shall be appointed initially for a two year term and the other City Council appointee shall be appointed initially

for a three year term. All subsequent appointments will be for three year terms.

Vice-Mayor Field, Chairman of the Council Boards & Commissions Committee, said that the Committee has discussed these two appointments and feels that since the City Business & Development Commission is the economic development arm to the City that Council appoint two members of Council.

It was the consensus of Council to appoint Councilman Sellers to the initial three-year term and Vice-Mayor Field to the initial two-year term.

Mr. H.K. Edgerton asked that ordinance establishing the City Business and Development Commission be amended to include NAACP representation on that Commission.

Mayor Martin said that the Council Boards & Commissions Committee would discuss that request.

Mayor Martin asked that the record show that City Council has received this information.

OTHER BUSINESS:

Request of Mr. Ralph Bishop

Mr. Ralph Bishop requested a certified copy of the September 24, 1996, minutes. City Clerk Burleson said that she would be happy to furnish him with a copy of those minutes after they were approved by City Council on October 8, 1996. She stated that he would also need to pay the established fee of $3.00 for a certified copy.

Comments by Ms. Leni Sitnick

Ms. Leni Sitnick thanked Council for expanding CityWorks. She also suggested that the audio conditions in Room 623 and in the Council Chamber be improved. She asked Council to encourage people to duplicate visual aids so that the audience and Council can see the material being presented and also suggested that Council seriously consider their meetings be televised.

Ms. Sitnick also brought to Council's attention the "ugly" rumor of a Six Flags being built in West Asheville.

155 Acres Rezoning Request between Overlook Road and Hendersonville Road

Mr. Richard Green invited City Council to attend a meeting in South Asheville on Tuesday, October 8, 1996, at approximately 7:00 p.m. at T.C. Roberson High School Cafeteria to discuss many concerns they have regarding Council's refusal to ask the Planning & Zoning Commission to study a 155 acre area in South Asheville.

Ms. Trisha Noel urged Council to reconsider rezoning both 5 acre OI portions in the subject area. She stressed that six attempts have been made to rezone other properties in that immediate area to OI and if Council does nothing now, there is a chance that the OI zoning will

spread. She said that the area had been appropriately zoned until the spot zoning occurred approximately two years ago. She said that they need to protect the integrity of the neighborhood and schools.

Councilman Hay said that instituting a rezoning study of the entire 155 acres would delay implementing the UDO City-wide.

Vice-Mayor Field disagreed that the area was illegally spot zoned. She also said that if City Council rezoned the northern 5 acre OI portion that had a building on it, Council would be making that building a non-conforming use, which she felt Council would be reluctant to do.

Mr. Gerald Green, Senior Planner, said that staff would be reluctant to recommend the creation of a non-conforming use, unless the use was totally out of character in the area - which, in this case, the building is not.

Discussion then surrounded how this area is designated in the 2010 Plan, the buffering requirements between OI and R-2, and what the preliminary mapping under the UDO calls for in this area.

Upon inquiry of Councilman Worley, Mr. Gerald Green said that all zoning classifications will change to some degree when the UDO is adopted, regardless of whether Council rezones this property now or not.

When Councilman Hay asked if the neighborhood had a legitimate concern about the spread of OI in the area (especially if OI touches R-2), Mr. Gerald Green said that nothing is an absolute. He said it would depend on the character of the area and the willingness of City Council to change that designation.

Upon inquiry of Councilman Hay, Mr. Gerald Green said that the Planning staff has started, on a preliminary basis, the study on the OI portion of the Morosani property, but it would be no problem to include the 5 acre northern OI portion.

Councilman Worley said that his number one goal is to get the UDO adopted at which time the entire area will be dealt with. He didn't object to adding the northern 5 acre OI portion, but he felt that Council may be right back where they are now - not agreeing to create a non-conforming use.

Councilman Skalski strongly felt that the entire 155 acres should be studied now. There is a very serious problem in that area and the neighborhood should not have to wait until adoption of the UDO.

Vice-Mayor Field asked Mr. Gerald Green if Council decided to direct the Planning & Zoning Commission to study both 5 acre OI tracts, would that bar Mr. Morosani from having a valid protest petition if he chose to file one. Mr. Gerald Green replied that it would have no affect.

Vice-Mayor Field felt that City Council is already dealing with the immediate problem being the OI portion of the Morosani property, but if the Planning staff doesn't think adding the northern 5 acre OI portion won't take anymore time, she would have no problem in asking the Planning & Zoning Commission to study that portion as well.

Mayor Martin and Councilman Sellers agreed with Vice-Mayor Field.

Ms. Laurel Eide stressed that there is a chance for the OI zoning to spread into the neighborhood. She pointed out, by using a map, where there are 42 undeveloped acres in the immediate area currently zoned R-2 that have the potential of being rezoned OI.

A resident of Oak Forest Subdivision said that she did not sign the 155 acre rezoning petition and did not want her property rezoned. She stated that many of the neighbors felt the same way.

Mayor Martin said that this Council felt they were doing the right thing for the neighborhood when they didn't request the Planning & Zoning Commission to study the entire 155 acres. He felt it wasn't right to down-zone property from R-1 to R-1A.

Mr. Bill Koon, resident in the Oak Forest Subdivision, stated why he supported the 155 acre rezoning request.

Mr. Bruce Rogers, representing the Oak Forest Homeowners Association, hoped Council would request the entire 155 acres be studied in order to avoid undesirable development in the OI tracts.

When Councilman Hay asked if the Oak Forest Subdivision residents would be satisfied with Council asking for a study of the two five acre OI portions, Mr. Rogers felt they might be satisfied if they were rezoned to a more restrictive classification.

Mr. Richard Green called to Council's attention that the northern 10 acre tract was recently up for sale and if that earlier development would have occurred, the building presently on the northern 5 acre OI portion would have been bulldozed down. He also noted that the 2010 Plan seems to clearly indicate that the two tracts in question should be low density residential.

Ms. Janet Moore, resident of Oak Forest Subdivision, voiced concern over the quality of life in the neighborhood. She felt that keeping the OI portions would only generate more traffic and add more pressure on the already over-crowded schools in the area. She did not feel that this rezoning request was a public housing issue.

Mr. H.K. Edgerton wondered if the residents would be willing to have public housing built in their area.

Councilman Hay said that as long as the process moves forward, Council should consider adding the northern 5 acre OI portion to the study request.

Ms. Catherine Bolick, resident of Oak Forest Subdivision, urged Council to study rezoning the entire 155 acres. She said that they do not want high development to come into that area, specifically noting the already over-crowded schools.

Mayor Martin asked that the record show that the City Council has received additional information on this matter and instructed the City Manager to place this item on the next formal meeting agenda.

Comments by Mr. H.K. Edgerton

Mr. H.K. Edgerton, speaking on behalf of the NAACP, asked Council about the economic development component of the HOPE 1 program. He also asked about the Master Plan for the River.

Vice-Mayor Field responded that there were two documents available from RiverLink and that an effort is underway to get a comprehensive planning document.

City Manager Westbrook said that Mr. Edgerton would need to talk to the Housing Authority about the economic development component of the Hope 1 program.

Mr. Edgerton said that redevelopment plans are not doing anything good for the African-Americans in Asheville, especially when they are not included in the planning process. He then asked that that the records reflect that he did not dislike Mayor Martin. He informed Council that he was trying to get African-Americans more involved in their community.

CLOSED SESSION

At 5:00 p.m., Councilman Worley moved to go into closed session (1) to consult with the City Attorney in order to preserve the attorney-client privilege as authorized by G.S. 143-318.11 (a) (3); and (2) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body as authorized by G.S. 143-318.11 (a) (4). This motion was seconded by Councilman Sellers and carried unanimously.

At 5:50 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:50 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - October 8, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson

Absent: City Manager James L. Westbrook Jr.

INVOCATION

Councilman Skalski gave the invocation.

I. PROCLAMATIONS:

Mayor Martin welcomed Ms. Kathy Kline and her 6th grade students from Carolina Day School.

A. PROCLAMATION PROCLAIMING THE WEEK OF OCTOBER 6-12, 1996, AS "FIRE PREVENTION WEEK"

Mayor Martin proclaimed the week of October 6-12, 1996, as "Fire Prevention Week" in the City of Asheville and presented the proclamation to Fire Chief John Rukavina who briefed the Council on some activities that would be taking place during the week.

B. PROCLAMATION PROCLAIMING SUNDAY, OCTOBER 13, 1996, AS "FIREFIGHTER MEMORIAL SUNDAY"

Mayor Martin proclaimed Sunday, October 13, 1996, as "Firefighter Memorial Sunday" in the City of Asheville and presented the proclamation to Fire Chief John Rukavina who invited City Council and the public to their ceremonies on that day.

C. PROCLAMATION PROCLAIMING THE WEEK OF OCTOBER 13-19, 1996, AS "NATIONAL FOOD BANK WEEK"

Mayor Martin proclaimed the week of October 13-19, 1996, as "National Food Bank Week" in the City of Asheville and presented the proclamation to Mr. Toby Ives, Executive Director of Manna Food Bank, who briefed the Council on some activities that would be taking place during the week.

D. PROCLAMATION PROCLAIMING THE WEEK OF OCTOBER 14-21, 1996, AS "RAPE AND ASSAULT PREVENTION WEEK"

Mayor Martin proclaimed the week of October 14-21, 1996, as "Rape and Assault Prevention Week" in the City of Asheville and presented the proclamation to Mr. Carl Wilcox who briefed the Council on some activities that would be taking place during the week.

E. PROCLAMATION PROCLAIMING THE WEEK OF OCTOBER 20-26, 1996, AS "NATIONAL ADULT IMMUNIZATION AWARENESS WEEK" AND SUNDAY, NOVEMBER 3, 1996, AS "SENIOR VACCINATION SUNDAY" IN THE CITY OF ASHEVILLE

Mayor Martin proclaimed the week of October 20-26, 1996, as "National Adult Immunization Awareness Week" and Sunday, November 3, 1996, as "Senior Vaccination Sunday" in the City of Asheville and presented the proclamation to Ms. Barbara Dalton from the Disease

Control Division of the Buncombe County Health Dept., who briefed the Council on some activities that would be taking place.

F. LETTER OF APPRECIATION FROM MAYOR OF KARAKOL, KIRGYZSTAN - ASHEVILLE'S SISTER CITY

Mr. Dennis Hodgson read a letter from the Mayor of Karakol, Kirgyzstan, which expressed Karakol's appreciation to the City of Asheville for their friendship and good relations between the two cities.

Vice-Mayor Field recognized Ms. Kiki Suarez, internationally known folk artist from San Cristobal, Chiapas, Mexico. She invited the public to attend Ms. Suarez's exhibition on Friday, October 11, 1996, at the Broadway Arts Building beginning at 5:00 p.m.

II. CONSENT:

A. APPROVAL OF THE AMENDED MINUTES OF THE WORKSESSION HELD ON SEPTEMBER 17, 1996, THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 24, 1996, AND THE WORKSESSION HELD ON OCTOBER 1, 1996

Summary: The minutes of the worksession held on September 17, 1996, are amended for clarification purposes regarding the matter of the 155 acre rezoning request between Overlook Road and Hendersonville Road.

B. MOTION AUTHORIZING THE PARKS & RECREATION DEPARTMENT TO DEVELOP A STRATEGIC PLAN FOR BELE CHERE FESTIVAL

C. MOTION APPROVING THE LOGO FOR COMMUNITY ORIENTED GOVERNMENT

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

III. UNFINISHED BUSINESS:

A. MOTION DIRECTING THE PLANNING & ZONING COMMISSION TO CONSIDER APPROPRIATE ZONING OF THE OI PORTIONS OF PIN NOS. 9655.09-15-2013 AND 9655.09-15-0415 LOCATED WEST OF HENDERSONVILLE ROAD

Councilman Cloninger moved to direct the Planning & Zoning Commission to consider appropriate zoning of the OI portions of PIN Nos. 9655.09-15-2013 and 9655.09-15-0415 located west of Hendersonville Road. This motion was seconded by Councilman Worley.

Ms. Barbara Darden, representative of Center for World Servers, said that the zoning was changed to OI at the time of the annexation. The reason why that portion was zoned OI was because of the Center's activities being of a public service. The Center is asking that their property not be rezoned. She, personally, regretted the offer to buy the property by the Texas firm that wanted to build 300 units. She was devastated that they wanted to remove the trees and take the beauty of the property away. However, she is also a real estate broker and they have asked her to represent them in the listing of the property in the spring of 1997. She said that she will be responsible that the property is put to proper use.

Ms. Darden also said that she has lived at the Center for almost seven years and the noise from the air conditioners at Ingles and the Gerber factory are intolerable. To change that to a residential zoning would defeat the whole sale of the property due to the noise factor.

Councilman Cloninger said that Council is only asking for a study of the OI portion of property. He encouraged the World Servers, along with Mr. Morosani (who owns the other 5 acre OI tract) and the residents in Blake Mountain Estates and their attorney, to meet and see if they can come to some mutual agreement as to the use of the property that all sides can live with - that will allow both sides to be able to use their property as they want to.

Mr. Jim Siemens, attorney representing the Blake Mountain Estates residents, said that he felt referring this matter to the Planning & Zoning Commission was the appropriate thing to do at this time. He said that he would be happy to work with Mr. Morosani and representatives of World Servers in the interim.

Councilman Skalski said that he said that he will vote in favor of this motion, however, he pointed out that in an earlier meeting he made a motion to study the entire 155 acres, not to just isolate these properties. He also agreed with Councilman Cloninger that there needs to be dialog between the groups. However, he felt that the dialog might solve the problem temporarily, but not long term and not with the planning area as a whole.

Councilman Hay stated that staff has informed Council that they cannot move forward with the UDO if the 155 acres were to be studied. It was a choice Council had to make.

Councilman Cloninger said that in effect the City will be studying the whole 155 acres as part of the UDO process.

Ms. Betty Budd, Coalition of South Asheville Neighbors, wanted Council to remember that World Servers is now owned by a company in California. She said that many community meetings were held in South Asheville when the extensive zoning in that area was done. They looked at many issues involved with bringing more homes into the area, such as the schools, road and water. She was glad that Council will be looking at the entire 155 acre parcel because it will affect the quality of life of many people in South Buncombe.

Mayor Martin then asked that a voice vote be taken on Councilman Cloninger's motion. Said motion carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING 112 LOTS IN THE WILSHIRE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

ORDINANCE NO. 2322 - ORDINANCE TO REZONE 112 LOTS IN THE WILSHIRE PARK AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO R-1A SINGLE FAMILY, MODERATE DENSITY RESIDENTIAL

Mayor Martin said that this public hearing was originally scheduled for September 24, 1996, but had to be rescheduled until this date due to a notice to the public error.

Mayor Martin then opened the public hearing at 5:36 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that on July 23, 1996, City Council directed the Planning Department to study the Wilshire Park area for possible rezoning. The Planning staff reviewed the petition and found it to be valid and submitted the petition to the Planning & Zoning Commission for their recommendation.

The subject property is approximately 54.32 acres. The 112 lots are located within the area called Wilshire Park which is directly west of Patton Avenue. The 2010 Plan recommends this area to be low density residential.

Of the 112 lots, 108 have a single family residential structure, one is owned by a church and three lots are currently vacant. All 112 lots conform to the R-1A standards which is minimum lot size of 5400 square feet and minimum lot width of 50 feet. The petition contains 96 verified property owner signatures or 85% of the property owners and the 96 lots constitute 71% of the land area.

The Planning staff reviewed the petition and recommends that the 112 lots in the Wilshire Park area be rezoned from R-3 to R-1A. At the September 4, 1996, Planning & Zoning Commission meeting, the Commission voted 6-1 to recommend approval of the rezoning request. Mr. Ownbey could not recall the reason for the one vote against the rezoning by the Commission.

When Vice-Mayor Field asked approximately how many staff hours it took for the Planning Department to bring this matter to City Council, Mr. Ownbey said that this rezoning request took approximately 40 hours of work.

Upon inquiry of Mr. H.K. Edgerton, President of the NAACP, Mayor Martin said that none of this land is suitable for the Housing Authority's quadruple apartments.

Mr. George Watt, Treasurer of the Wilshire Park Community Club, spoke in support of the rezoning request.

Mr. John Wilson, owner of 7 lots designated as two tax lots in the proposed area, said that he bought this property over six years ago and it was zoned R-3. He said that he didn't do anything to his property for a long time because you can't use the property the way it was - it was very steep. Last year he spent $10,000 extending Luther Road so he could get onto his property and build. He met with the neighborhood and explained that he wanted to put duplexes on his property and the terrain dictated that they would have basements. He felt they would be an asset to the neighborhood, however, the neighborhood does not want them built. He noted that there are already three duplexes in the area along with two businesses, one is a Beauty Shop at 42 Wilshire Drive and the other is Asheville Home Improvements at 2 Wilburn. He said that property rights were very important and the neighbors should not be allowed to take his rights away from him.

Vice-Mayor Field said that even though this area has not been mapped yet under the UDO, she said that it was her understanding that in the UDO duplexes will be allowed in most residential zones.

Ms. Margaret Sexton, 60 Luther Street and Secretary of the Wilshire Park Community Club, felt that duplexes will bring in

additional traffic, on a street that can't handle anymore traffic, and noise to the area.

Mayor Martin closed the public hearing at 5:48 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Sellers moved for the adoption of Ordinance No. 2322. This motion was seconded by Councilman Skalski.

Councilman Hay felt that this area really is an R-1A neighborhood that's been zoned R-3. At the time it was zoned R-3, he didn't think that R-1A was an available zoning designation. He felt that the area should have been zoned R-1A from the beginning.

On a roll call vote of 7-0, Ordinance No. 2322 passed on its first and final reading.

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B. PUBLIC HEARING TO REZONE 11 LOTS IN THE BURTON STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CS COMMERCIAL SERVICE DISTRICT

Mayor Martin said that this public hearing was originally scheduled for September 24, 1996, but had to be rescheduled until this date due to a notice to the public error.

Mayor Martin then opened the public hearing at 5:51 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that the original petition was to rezone 15 lots from R-3 Medium Density Residential to CS Commercial Service. Two lots were recommended to be added by the Planning staff that were not part of the original petition so that there would not been an illegal spot zoning. Prior to the request being considered by the Commission, two property owners withdrew their request for the rezoning of their three lots on the west side of Burton Street (PIN Nos. 9639.14-44-3992 & 4927 and 9638.10-45-4022) leaving the rezoning request for a total of 14 lots. The Planning staff reviewed the rezoning request and recommended approval of just 11 of the lots and deny rezoning of three lots (PIN Nos. 9638.10-45-4124, 4228 and 5401). The 11 lots recommended for rezoning are identified as PIN Nos. 9638.10-45-6027, 6187, 6285, 6365, 6477, 7033, 7038, 7356 and 7593 and 9638.10-44-6919 and 7928 and are all on the east side of Burton Street.

The subject properties are approximately 6.5 acres. The 17 lots are located on Burton Street just north of Haywood Road. The 17 lots contain eight residential structures, two commercial structures, six vacant lots, and two lots with commercial storage. The 2010 Plan recommend this area be low density residential with some commercial on the southern fringe. The subject properties are surrounded on the north and west by residential, on the east by I-240, and on the south by commercial. The existing commercial structure and the surrounding vacant lots on the east side of Burton Street have potential for commercial development. The lots on the west side of Burton Street, that are not vacant, have existing residential structures. These vacant

lots should be looked at for further residential development as well as to continue to provide a buffer for the existing residential area.

At the September 4, 1996, Planning & Zoning Commission meeting, the Commission voted 5-2 to recommend approval of the rezoning of the 11 lots.

Mr. Ownbey said that a valid protest petition has been filed.

Upon inquiry of Mayor Martin relative to buffering requirements, Mr. Ownbey said that there would be a 20 foot buffer strip that would be required for the commercial development.

Councilman Worley asked if there was a building on the east side of Burton Street tract. He replied that there is a commercial building on that tract that is being renovated and that the building has been there since the 1920's.

Upon inquiry of Vice-Mayor Field about the four buildings presently on the affected property on east side of Burton Street, Mr. Ownbey said that two of the buildings are owned by the petitioner which are rented and two are owned by other individuals (one of which signed the rezoning petition). All four buildings are permitted uses in the CS District.

Ms. Gloria Johnson, resident of 87 Burton Street and Chairperson of the Burton Street Community, said that the 90% of the property owners in the Burton Street area request that Burton Street remain a residential street. They feel that way because the traffic flow on Burton Street is very heavy and dangerous to the children due to the fact that some children walk to and from school and the community center. She said Mrs. King, a property owner whose property abuts the proposed CS, sent a letter to Mr. Ownbey noting that she does not support the rezoning request and would like for it to remain residential.

When Councilman Skalski asked if it would be possible to keep the area rezoned R-3 on the east side and allow the commercial use that's in there now to be on a conditional use, he was told it was not possible. He then noted that if the property on the west side of Burton Street remains residential, anything on those properties that's not residential would have to be removed.

When Councilman Skalski asked if the neighborhood has a problem with what's in the area now, Ms. Johnson said not really because the only thing Mr. Aliferis has on that property is the U-Haul trailers. She did talked with Mr. Aliferis and he said he wanted to use the building as for storage and office space. However, if Mr. Aliferis sells the property, it can be used for anything allowable in the CS district. They're just getting cleared up the drug and traffic problems on their Street and they fear what can be built in a commercial zone. She said the area has been residential for over 40 years and it should remain residential.

Mr. Spiro Aliferis, petitioner, said that even though the buffering requirements call for 20 feet, he would be willing to extend that to 30 or 40 feet. He said that building has been on his property since 1921 and last year he started renovating it so he could use it. However, when he came in for a permit, he was told the area was not zoned properly for that commercial building and that is why he is asking for the area to be rezoned. He said the building would be used for the

U-Haul business and the inside will be sub-divided into mini-warehouses. On a good day, he anticipated no more than 15 people would be in the building.

Mr. H.K. Edgerton, President of the NAACP, spoke in strong opposition to rezone this property to commercial. He said the U-Hauls that are there now leading into a traditional African-American community are an eye-sore.

Pastor Carl Arrington, Wilson Chapel United Methodist Church located on Burton Street, said that the Burton Street residents have worked hard to clean up their homes and better their neighborhood. They do not want to see their investment threatened by the uncertainties of creeping commercialism. The greatest fear is what might be brought into their neighborhood if it is zoned commercial. He requested this rezoning petition be denied.

Upon inquiry of Mr. Richard Nantelle, West Asheville resident, about what the UDO mapping for this area would likely be, Councilman Worley said that the Planning staff would be looking at existing uses and trying to map the area so as much as possible to not create non-conformities. He was not sure how the staff would look at a lot that is zoned residential but has had a commercial use on it for a substantial period of time. Mr. Gerald Green, Senior Planner, also responded by saying that this portion of West Asheville has not been mapped yet, but in looking at a situation like this, the staff would defer to the 2010 Plan to see what direction that might provide for that area. They would then look closely at the impact on the surrounding neighborhood with regard to use, access, infrastructure, etc.

Ms. Jane Mathews, Planning & Zoning Commission member (one of two members who voted against the rezoning), felt that this should not be rezoned. She felt this was an issue of the quality of residential development and how we can enhance a neighborhood that is struggling to maintain it's residential quality. She felt that commercial uses that are there are not in compliance with the zoning ordinance due to lack of enforcement and that lack of enforcement is allowing the commercial encroachment. She reminded Council that once is area is rezoned commercial, any use allowable under the designation can be built. She felt that the infrastructure in terms of the road is not there for that kind of development to go down into Burton Street. She strongly felt that this is very much of a commercial encroachment that was not beneficial to the City or the residential neighborhood in the long run.

Councilman Sellers noted that the area was a mess for years and Mr. Aliferis has spent approximately $40,000 to clean it up and make improvements, then only to be told that he can't use it. He spoke in favor of the rezoning.

Mayor Martin closed the public hearing at 6:30 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Field said that she has not had an opportunity to visit the area in question and had a difficult time in deciding since both sides had valid points. She asked that this matter be tabled and since there is a valid protest petition which would require 6 out of 7 Council members voting in favor of the rezoning petition.

Councilman Skalski agreed with Vice-Mayor Field because he does support businesses along the neighborhood fringes but he doesn't think this neighborhood should suffer for something they did not create. At this point he could not vote in favor of the rezoning, but he would be in favor of tabling this to give the parties a chance to come up with a solution that maybe the UDO, with more zoning districts and more flexibility, would allow.

Vice-Mayor Field moved to table this matter until October 22, 1996. This motion was seconded by Councilman Skalski.

Councilman Worley had no objection in tabling this matter, however, he has given this matter a lot of thought and believed that Council should approve the rezoning request for the following reasons: (1) there is a long history of this property being used as commercial property; and (2) if Council leaves it residential, he felt it was unlikely that someone would go to the expense to tear the building down and reconstruct dwelling units because the expense involved in preparing that property would be too high.

Vice-Mayor Field felt that tabling the matter two weeks might give the parties an opportunity to get together and arrive at a solution. Her concern was that this area makes a lot of sense to be a transitional overlay and she personally does not, although Council continues to do it, think Council should be considering rezonings in the middle of the UDO mapping process. Council has protected a lot of neighborhoods in this community and this particular neighborhood has a tremendous amount of spirit and soul and Council needs to respect their wishes as much as the wishes of some of the other West Asheville communities, like Wilshire Park. She does not necessarily think we should be creating a non-conforming use and she totally respects the needs for commercial there.

Councilman Worley realized that when Council rezones an area, they rezone it not based on what the petitioner says the usage is going to be, but rezones it based on the whole realm of possible uses under that new zoning area. This Council cannot dictate to a petitioner any kind of restrictions on those uses. He understands that Mr. Aliferis has indicated to the neighborhood what he does intend to use the property for. He knows that it is possible for Mr. Aliferis and the neighborhood to reach an agreement for him to impose voluntarily some sort of deed restrictions on the use of the property. That is one possibility and he's not suggesting that he does or does not do that, but that is a possibility.

When Mayor Martin called for a vote on the motion to table this matter until October 22, 1996, said motion carried on a 5-2 vote, with Councilmen Cloninger and Sellers voting "no".

V. NEW BUSINESS:

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council

determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on October 2, 1996:

DEAL BUICK (MERRIMON AVENUE) ADDITION

Mr. Gerald Green, Senior Planner, said that this is a proposal for a 9,600 square foot service building to be located on the Deal Buick property at 136 Merrimon Avenue.

The approximately six acre property is zoned CH commercial highway. Adjacent zoning is CH to the North, South and East and R-3 and R-4 to the West. The proposal meets all zoning and Group Development requirements.

Staff has received no comments in opposition to the group development.

The City Planning and Development staff recommends approval of the Group Development with one contingency being that the City receive letters confirming water and sewer availability and adequate water pressure for fire protection. The fire protection for the facility has been approved and staff is still awaiting the letters regarding water and sewer availability and they have spoken with representatives of those departments and those letters are on the way.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group development with the above condition.

Council accepted the report of the Planning and Zoning Commission with the above condition, thereby approving the project by taking no action.

41 Atkins Street Duplexes

Mr. Green said that this proposal is for five duplex buildings and one existing house for a total of 11 units to be located at the west end of Atkins Ave.

The property totals 1.975 acres and is zoned R-2 which allows six units per acre. Adjacent zoning is R-2 to the North and West, HI to the South, and R-4 to the East. The proposal meets all zoning and group development requirements.

Staff has received numerous comments in opposition to this group development regarding traffic. The City's Traffic Engineer reported that Atkins Avenue would be able to accommodate the traffic generated by the proposed development.

The Planning and Development staff recommends approval of the group development with the contingency that the City receive a letter of sewer availability. That letter has been received.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group development with the above condition.

Council accepted the report of the Planning and Zoning Commission with the above condition, thereby approving the project by taking no action.

Nordon Apartments (Rathfarnham Road)

Mr. Green said that this proposal is for three buildings with four, two bedroom apartments in each building to be located on Rathfarnam Road.

The .84 acre parcel is zoned R-3 which allows 16 units per acre. The proposed development will have a density of 14.3 units per acre. Adjacent zoning is R-3 to the North, South, East and West. The proposal meets all zoning and group development requirements.

Staff has received a few comments in opposition to this group development regarding traffic impact, noise and impact on the adjacent Ravenscroft Condominiums.

The Planning and Development staff recommends approval of the group development with no conditions.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group development with no conditions.

Council accepted the report of the Planning and Zoning Commission with no conditions, thereby approving the project by taking no action.

Wingate Inn (2 Kenilworth Knoll)

Mr. Green said that this proposal is for a four-story, 140 room Wingate Inn to be located at 2 Kenilworth Knoll.

The property totals approximately 6.75 acres and is zoned CH commercial highway. The property will be subdivided and a 1.4 acre outparcel will be created. This is considered a minor subdivision and has been approved by staff.

A variance is requested (from Section 30-3-14 F. of the zoning ordinance) from the requirement that a parking lot buffer be placed between the Wingate Inn parking lot and an adjacent lot.

Staff has received no public comment regarding this project.

The Planning and Development staff recommends approval of the group development.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group Development and the variance request. The recommendation regarding the variance was contingent upon the required number of trees being provided elsewhere on the site.

Councilman Worley moved to set a public hearing on October 22, 1996, to consider the approval of a site plan and a request for a variance for Wingate Inn located at 2 Kenilworth Knoll. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mr. Brian Hennessee, HRS Associates, requested that the variance public hearing be for both the proposed restaurant and the hotel since they are both planning to co-use the parking lot. The variance will enable them to keep the parking lot size down and the required trees will be placed in other internal grass medians through the parking lot. Mr. Green said that City Council could only grant a variance for a group development project and the only group development project is the motel.

The restaurant is considered a small project and any variance requested by the restaurant must be heard by the Board of Adjustment.

Upon inquiry of Vice-Mayor Field, Mr. Green said that under the UDO variances of all types will go to the Board of Adjustment.

Biltmore Health & Fitness Park

Mr. Green said that this proposal is for a medical/office complex to be located off Hendersonville Road just south of I-40.

The 9.9 acres is zoned CH Commercial Highway and CS Commercial Service. The proposal consists of three buildings. Building A is a proposed two story medical office building and is 60,895 square feet. Building B is a proposed four story medical office building and is 94,986 square feet. Building C is a proposed three story wellness center and is 40,000 square feet. This is a total of 195,881 square feet. Adjacent zoning is CH Commercial Highway to the South, I-40 right-of-way to the North, and the Town of Biltmore Forest to the West. The proposal meets all zoning and group development requirements.

The developer has requested vested zoning rights pursuant to Article 14, Section 30-14-1 of the City Code.

Staff has received no comments in opposition to the group development.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group development with one condition: (1) letter of agreement regarding parking, drainage, and graded needed from Church.

Vice-Mayor moved to set a public hearing on October 22, 1996, to consider the approval of a site plan and a request for a zoning vested right for Biltmore Health & Fitness Park, located on US Highway 25 & I-40. This motion was seconded by Councilman Worley and carried unanimously.

B. REMOVAL OF ITEM FROM CITY AUCTION

Assistant City Manager Spell said that the Town of Woodfin has contacted the City and they have requested a vehicle on our list for sale at the City's auction. They have asked that they be allowed to purchase a 4-wheel drive Blazer. Formal action is needed to remove it from the list of approved surplus property. He suggested Council instruct staff to negotiate with the Town of Woodfin on the price.

Councilman Cloninger moved to authorize and direct the Purchasing Director to remove from the list of City property to be sold at public auction on October 19, 1996, one surplus K-Blazer vehicle, and to negotiate a sale of the vehicle to the Town of Woodfin on such terms and conditions as he shall deem to be in the best interest of the City of Asheville, as authorized by G.S. 160A-274. Provided, that the sale shall not be consummated until 10 days after publication of a notice summarizing the contents of this motion, as required by G.S. 160A-267. This motion was seconded by Councilman Sellers and carried unanimously.

C. SKYLAND VOLUNTEER FIRE DEPARTMENT

City Attorney Slawter has had a request from the attorney from the Skyland Volunteer Fire Department requesting that Council, as soon as possible, consider authorizing the Mayor to execute a document that is

necessary in connection to the financing they are obtaining for the construction of their new fire department. This will not adversely affect the City's rights, but will only enable the Skyland Volunteer Fire Department to complete their financing with Wachovia.

Councilman Worley moved to authorize the Mayor and City Clerk to execute a Non-Disturbance, Subordination and Attornment Agreement in favor of Wachovia Bank of North Carolina, N.A., related to property owned by the Skyland Volunteer Fire Department, a portion of which is leased to the City of Asheville. This motion was seconded by Vice-Mayor Field and carried unanimously.

D. CLAIMS

The following claims were received by the City of Asheville during the week of September 13-26, 1996: Lisa Millard (Police), Jon N. Nilsson (Water), Kathryn Enloe (Streets) and Robert Seven (Water).

The following claims were received during the week of September 27-October 3, 1996: BellSouth (Streets), Gary Thrailkill (Water), Horace McDonald (Streets), Jonnie Springs (Police), BellSouth (Water) and Rose Mary Miller (Water).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

C. LAWSUIT

The City was served with a Petition for Writ of Certiorari on September 23, 1996, which is generally described as follows: In re: The Matter of Sears Roebuck & Company - nature of proceeding is appeal to Superior Court of Board of Adjustment decision (sign variance).

This matter will be handled in-house.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:03 p.m.

Magdalen Bowlesson
CITY CLERK

MAYOR

Tuesday - October 15, 1996 - 4:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT AGENDA:

Bids on Two Fire Pumpers

Summary: The consideration of the award of Bid Request No. 459-97 to purchase two fire pumpers for use in the Fire Department.

Pursuant to N. C. Gen. Stat. sec. 143-129, and in compliance with the City's Minority Business Plan, sealed bids were received to furnish one (1) fire rescue pumper and one (1) pumper retrofitted with a telesquirt for the Fire Department. Two bids were received as follows:

Vendor	Net Cost
Bid Item No. I:	
Chief's Fire & Rescue Inc., Jefferson, NC	$146,950.00
KME Fire Apparatus, Nesquehoning, Pennsylvania	$180,381.08
Bid Item No. II:	
KME Fire Apparatus, Nesquehoning, Pennsylvania	$222,281.00

These units will be an addition to the City's fleet. Bids have been reviewed for technical compliance to specifications by the Fire Department and Fleet Management, and their concurrence received in the following recommendation.

Subject to Council's approval, it is recommended that the bid be awarded as follows:

Bid Item No. I:
Award to the second low bidder, KME Fire Apparatus, in the amount of $180,381.08 for the purchase of a 1996 Freightliner model FL-80 with a KME Rear Mount Rescue Pumper.

The low bid from Chief's Fire & Rescue, Inc., is not recommended because the unit they proposed to furnish fails to meet minimum bid requirements/specifications. Major exceptions include a lighter weight cab and chassis than specified and failure to provide passenger compartments large enough to transport assigned firefighters.

Bid Item No. II:
Award to the sole bidder, KME Fire Apparatus, in the amount of $222,281.00 for the purchase of a 1996 KME model MFD with a 174 Aerial retrofitted with a Telesquirt from vehicle no. 922.

In addition to evaluating bids for compliance to specifications, etc., cost was also considered. When compared to other governmental agencies cost for like equipment, the amounts bid the City are determined to be fair and reasonable.

Funds for the purchase of this equipment are to be from the Fire Department's appropriations, Account Code 20-420-40-471-00-5741. (Item no. (I) is budgeted to be acquired by lease/purchase arrangements, funds for item no. (II) to be provided in FY 96/97 budget, as amended.)

Intent to Close Evelake Drive where it Dead Ends and Intersects with the City of Asheville Territorial Line, adjacent to Hazel Township

Summary: The residents of Camelot Community and members of Camelot Community Watch have requested that Evelake Drive at a point 2305 feet from the intersection with Leicester Highway be permanently closed to public use. The attached map shows the street and location of proposed closure.

The request to close the street contained 134 signatures from residents of the Camelot neighborhood. Residents reported that through traffic from an illegal driveway connection outside the City limits had resulted in safety problems on the residential street. In response to the request, City staff installed temporary barricades at this dead end portion of Evelake Drive to further evaluate the problem. Subsequent to the installation of the barricades, motorists disregarded the temporary safety improvement and destroyed the barricades. This particular access point continued to be used as a short cut for motorists entering and exiting a local mobile home park in Buncombe County. Said mobile home park maintains permanent existing access at Smith Graveyard Road.

City staff has found that motorists transversing Evelake Drive from the mobile home park were disregarding posted speed limits, children playing, pedestrians, residents backing out of driveways, and littering the roadway. Staff has determined that this closure will promote the public safety of all residents living on Evelake Drive. All owners of adjoining property effected by the street closing will be notified by certified mail of the Resolution of Intent to permanently close the street.

The Public Works Department staff recommends the Resolution of Intent to permanently close Evelake Drive at a location 2305 feet from the intersection with Leicester Highway be approved due to safety concerns and based upon the fact that the adjacent property in Buncombe County has access to Smith Graveyard Road.

Speed Limit Reductions

Summary: Change to 15 mph on Reservoir Road; Change to 20 mph Baker Drive Extension (entirety), Wood Avenue (entirety), Bradley Road (entirety), Edgewood Road (South) (entirety), Westwood Road (entirety), Stoner Road (entirety), Trappers Run (entirety), Granada Street (entirety), Cordova Street (entirety), Stewart Street (entirety), Short Michigan Avenue (entirety); Change to 25 mph Baker Drive (entirety), Sleepy Hollow Drive (entirety), Edgewood Road (Enka) (entirety), Oakley Road (entirety), Vermont Road (entirety), Michigan Avenue (entirety), Mitchell Avenue (entirety); Change to 35 mph Fairview Road - from Sweeten Creek Road to NC 81, and Brevard Road - from I-240 to Haywood Road (US 19-23 Business); and Establish at 45 mph Brevard Road - from Sardis Road to I-240.

Budget Amendment for Bus Shelters and Benches

Summary: The City of Asheville received another capital grant for the purchase and installation of additional shelters and benches for the transit system.

The City of Asheville applied last year for another capital grant in the amount of $110,000 for the purchase and installation of additional shelters and benches to be placed at specific locations along bus routes. These shelters and benches will add to the existing ones that have already shown to be a positive asset to the transit system. A budget amendment is required to place this funding into the system. The City's CIP has outlined this project the past two years.

The Planning staff and the Asheville Transit Authority recommend that City Council adopt the proposed budget for the purchase and installation of the additional shelters and benches.

Grant for Food Service in After School Program

Summary: Funds are available through the North Carolina Department of Environment, Health and Natural Resources, Division of Maternal and Child Health, Child and Adult Care Food Program to provide breakfast, lunch, and snacks. The City of Asheville wishes to apply for funding to provide food service in the After School Program.

The Parks and Recreation After School Program provides supervised licensed child care, recreation, enrichment activities, and food service to children ages 5 to 12 during after school hours and holidays at seven program sites. Sites are located at Claxton, Dickson, Hall Fletcher, Jones, Randolph, and Vance Elementary Schools; and Reid Recreation Center. Sites are licensed by the State of North Carolina with a child/staff ratio of no less than one staff person for 15 children. Breakfast is provided as needed, and after school snacks provided daily. Lunch is provided on holidays and teacher work days. Activities include arts and crafts, games, sports, science, music, free choice time, and computer lab. Fees are based on the number of children from each family and frequency of attendance. Parks and Recreation will contract with Asheville City Schools for food service at a rate of $.75 per breakfast, $1.25 per lunch, and $.60 per snack. The grant will reimburse Parks and Recreation approximately one third of the cost of providing food service in the After School Program. The number of meals will vary based on the total meals actually served each month.

The Parks and Recreation Department recommends the City of Asheville apply for the grant funds through the Child and Adult Care Food Program.

Financing of Fire Truck

Summary: The consideration of the authorization for execution of documents in connection with the installment purchase of a fire truck.

The City of Asheville Capital Improvements Plan ("CIP") includes an appropriation in Fiscal Year 1996-97 for the installment purchase of a pumper fire truck. The CIP anticipated financing the purchase at 5.50% interest for 10 years.

City Council will have earlier in their October 22, 1996, meeting, approved the purchase of a 1996 Freightliner model FL-80 with a KME Rear Mount Rescue Pumper at a bid price of $180,381.08.

To obtain the best cost of funds for financing the fire truck, the Finance Department used a Request for Proposal process to solicit proposals from 20 banks and other financing companies. The lowest cost response was submitted by United Financial of North Carolina, Inc.

Their proposal includes a 5.24% interest rate for the duration of the financing and includes no closing costs or origination fees.

This resolution will authorize the Mayor, City Manager and City Clerk and/or Finance Director to execute any and all documents for funding the purchase of the fire truck at a principal purchase amount not to exceed $180,381.08.

The Finance Department recommends approval of the resolution.

Dispensing Motor Fuel at Unattended Enmark Corporation Service Stations

Summary: The consideration of a request from the Enmark Corporation asking the City's permission to dispense gasoline and diesel fuel from its two Asheville service stations when those stations are unattended.

A number of service stations around the U.S. provide for customer access to gasoline and diesel fuel when the station is unattended. This access is most often via special credit card.

It is possible for such facilities to be safely operated if safety concerns are satisfied.

The Enmark Corporation has asked for permission to operate two such service stations in Asheville. Enmark officials have met with the Fire Chief and staff of the Fire Department's Life Safety Division to identify how an unattended service station could be operated in the safest possible manner. The conditions identified include:

- telephone within 75 feet (handicapped-accessible)
- emergency fuel shutoff within 75 feet (handicapped-accessible)
- signs with clear emergency-action instructions
- limit on the amount of fuel that can be dispensed from any automated pump
- on-site availability of sufficient flammable-liquid absorbent material to handle a fuel spill at the fuel-dispensing limit
- U.S. Department of Transportation-approved container for holding absorbent material after any spill
- time limit for removal of contaminated absorbent by certified waste disposal firm after a spill

Enmark Corporation has agreed to these conditions. The Asheville Fire Code requires City Council approval, which is recommended by the Fire Chief.

Based on Enmark Corporation's agreement to the conditions described above, the Fire Chief of the City of Asheville recommends City Council adoption of a resolution authorizing the Enmark Corporation to operate two service stations capable of unattended fuel dispensing after regular service station hours.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these Consent Agenda items on the next formal City Council agenda.

PRESENTATION OF JOHN NOLEN'S 1925 CITY PLAN

Ms. Erin McLoughlin, Urban Planner, presented each member of Council with John Nolen's 1922 City Plan, adopted in 1925, which frames were donated by Mr. Ken Pitts from the Frugal Framer.

HOLIDAY LIGHTING

Mr. Mark Combs, Public Works Director, said that in recent months, the subject of holiday lighting has surfaced. Staff and others are seeking new and alternative ways to more efficiently and effectively decorate Asheville during the Holiday season.

As a result, the Arts Alliance, Asheville Downtown Commission, interested businesses/individuals, and City Staff are seeking to:

- Increase Christmas lighting in the downtown areas to augment present efforts.
- Find more cost effective/efficient ways to implement existing lighting.
- Organize and coordinate business efforts for long-term improvements to include potentially lighting buildings in downtown areas.

Due to the privatization of mowing services in the Parks & Recreation and Public Works Departments, fewer staff persons are available for placement of lights than in previous years. Additionally, feedback from individuals suggesting improved holiday lighting in Downtown Asheville and specifically in City-County Plaza has prompted a review of existing practices.

In light of the changes in manpower, staff met with Mr. Joey Moore, Chairman of the Tree/Greenway Commission, and the Downtown Association to seek input for potential modifications or changes to present arrangements. General concerns and comments from these meetings were:

- To encourage businesses to decorate their buildings at their own expense;.
- To continue to light the trees at City-County Plaza until such time that lights on buildings may diminish the need to light (all) trees;
- To consider an "incentive" program for businesses. For example, purchase lights at cost and sell to businesses;
- To consider modifications to City-County Plaza tree lighting in an effort to make the lighting brighter and more reliable;
- To consider public/private partnership for the lighting of trees in City-County Plaza. The City will provide boom trucks, limited labor, and private party(s) would provide maintenance, labor, materials.

Bruce Tompkins and Stan Collins of Biltmore Village spoke at several meetings and encouraged the lighting of buildings based on the success they have had in the Village, both in terms of aesthetics and increased sales volume. The Parks and Recreation Department has budgeted approximately $9,500 for lighting and electricians. The Public Works Department is currently making preparations to facilitate lighting placement to begin in the next two weeks.

In consideration of the factors discussed, staff recommends:

- Continuance of City-County Plaza tree lighting with annual report and review to Council;
- Solicitation for quotes from private sector:

  1) To develop methods to more reliably hang and maintain lighting; and
  2) To maintain lighting in subsequent years (to include utilization of <u>reduced</u> City staff and equipment).

- Promotion and encouragement of building lighting by businesses via various means in order to enhance and possibly replace/diminish necessity of lighting trees in City-County Plaza in the near future.

Mr. Combs suggested contracting with Mr. Dave Burnette (in an amount not to exceed $1,500) to work with City staff to help encourage businesses to light their buildings, to teach his staff how to wrap the trees more permanently and how to make the lights virtually maintenance free for three years. He said that the estimate for this whole program (which will include purchasing additional strands of lights) will be less than $5,000. He said that he would be asking Mr. Burnette for a bid to maintain the lighting in the City in subsequent years.

Mayor Martin said that the City has been working with the West Asheville residents to decorate Haywood Road during the holidays and hoped the City's efforts toward that end will continue.

Vice-Mayor Field supported the idea but wanted to point out that it will be difficult to outline the detail of the third and fourth floors of the buildings in downtown. She noted that the scale of the buildings in downtown Asheville are different than the scale of the buildings in Biltmore Village, i.e., the buildings in Biltmore Village are off the road more and you can see the details, however, in downtown, the sidewalks and streets are narrow and if the businesses light the tops of their buildings, you won't be able to see it. She suggested, and Mr. Combs agreed, that the downtown buildings be limited to lighting only two stories. She hoped that the City would continue purchasing the white lights and let the businesses purchase them from the City. She commended Mr. Combs for his recommendations.

Upon inquiry of Councilman Sellers, Mr. James Cheeks, Traffic Engineer, said that they are in the process of ordering 20 additional wreaths for Haywood Road.

Upon inquiry of Mr. H.K. Edgerton, Mr. Combs said that he is suggesting to contract with Mr. Burnette due to his expertise and the minimal amount of the contract.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place the item on the next formal City Council agenda.

Parking Study

Ms. Julia Cogburn, Planning & Development Director, said that staff is recommending to Council the next steps to be taken toward conducting a parking study for Downtown Asheville.

At a recent Council meeting, staff was directed to gather information on and make a recommendation concerning conducting a parking assessment study for Downtown Asheville. Staff has reviewed, working with the Parking Task Force of the Downtown Commission and the Asheville Downtown Association, the needs and possible approaches for conducting such a study.

In recent years a study had been recommended which proposed evaluating the parking situation in three sections of the downtown (Battery Hill; City-County Plaza; and South Patton). After researching the issues, staff and the Task Force recommend that the scope of the study be expanded to encompass the entire downtown. They feel this is necessary in order to obtain a thorough assessment of the integration of

available parking in the downtown area and to adequately evaluate our management systems, fee structure, etc.

Due to this change in scope, staff recommends that we prepare a new Request for Proposals and receive new proposals from interested consultants. We propose that a staff committee evaluate the proposals received and recommend to Council the selection of the consultant and appropriation of any additional funds needed to fund the study. Staff asks Council to approve proceeding in this manner.

Lastly, staff seeks direction from Council with respect to a request from the Biltmore Village Merchants Association to be included in a parking study should the City undertake one.

Staff requests approval from Council to do the following:

1. Prepare and solicit Request for Proposals for a parking study for all of downtown Asheville (basically the free zone area for the transit system).

2. Evaluate proposals received.

3. Report back to Council with a recommendation on the selection of a consultant and the funding and timing for the study.

City Manager Westbrook said that the Biltmore Village Merchants Association will apply for grants to build their garage, however, they need to have a study upfront before they can apply for those grants. They did not expect the City to build the garage.

Upon inquiry of Mayor Martin, Ms. Cogburn said that she is still waiting to hear from the State and the County on whether they will participate in funding this study. She said there is $3,000 in the City's transportation planning work program, $2,500 from the private businesses downtown and at least one outstanding pledge.

It was the consensus of Council to include Biltmore Village as an add alternate in the Request for Proposals and to ask if the Merchants Association would be willing to help fund the study.

City Manager Westbrook said that when staff does come back with a recommendation for the consultant, Council will then need to award the contract and appropriate the necessary funds.

Mr. Mark Combs, Public Works Director, asked if the Haywood Road area could also be included as an add alternate in the Request for Proposals. Parking is a big issue around the West Asheville corridor.

Ms. Cogburn responded to questions from Councilman Skalski relating to the total transportation system in Asheville.

Ms. Cogburn, at the request of Vice-Mayor Field, said that Asheville's Thoroughfare Plan and other pilot programs could be looked at with regard to the parking study.

It was the consensus of Council to add Haywood Road as an add alternate in the parking study too.

Upon inquiry of Councilman Cloninger, Ms. Cogburn said that it will take staff approximately three months to bring a recommendation back to Council for their consideration.

Upon inquiry of Mr. H.K. Edgerton, Mayor Martin said that this parking study will not affect parking on the river.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place the item on the next formal City Council agenda.

Direction on City Business & Development Initiatives

Ms. Julia Cogburn, Planning & Development Director, said that the staff of the City Business and Development Division seeks Council direction on initiatives regarding the City's Economic Development Incentive Policy and the development of a Strategic Plan for Economic Development for Asheville.

The City Council of the City of Asheville has directed staff in recent months to broaden the focus of the City Development Office. A new Division Manager has been hired and the newly-established City Business and Development Commission will meet for the first time in November.

Staff recommends that one of the first initiatives undertaken by this Commission and office be the development of a Strategic Plan for Economic Development for the City. This plan would be used as guidance for the focus of operations of the City Development Office and the City Business and Development Commission. The development of such a Strategic Plan is proposed to take approximately one year.

Staff further recommends that Council support immediate work by staff on revisions to Asheville's Economic Development Incentive Policy. The current policy, adopted in 1994, needs to be revisited and evaluated for its effectiveness. It also needs to be reexamined in light of recent state court cases heard on this issue. We have recently been in discussions with representatives of the State Department of Commerce who support Council looking at its policy for possible amendment. It is proposed that a recommendation will be brought to Council on this matter by February, 1997.

Staff requests direction from Council on both of these program recommendations. Staff would also request that Council appoint a working committee (members of Council) to advise and assist staff with these endeavors.

City Manager Westbrook said that since Vice-Mayor Field and Councilman Sellers are the Council's appointments to the City Business & Development Commission, that they would like to start working with them right away.

City Manager Westbrook responded to Councilman Cloninger's inquiry as it related to the plans of the City Business & Development Manager in the interim until the strategic plan is adopted. Three specific projects include the assistance with the Civic Center Task Force, becoming involved with development on the river and the Grove Arcade Project from an economic development prospective.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place the item on the next formal City Council agenda.

Upcoming City Council Staff Retreat

It was the consensus of City Council to hold their winter retreat on January 10-12, 1997, at Kanuga Conference Center, Hendersonville, N.C.

CLOSED SESSION:

At 5:05 p.m., Councilman Sellers moved to go into closed session as authorized by G.S. 143-318.11 (a) (3) to consult with the City Attorney in order to preserve the attorney-client privilege. This motion was seconded by Councilman Worley and carried unanimously.

At 5:45 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:45 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - October 22, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

II. CONSENT:

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 8, 1996, AND THE WORKSESSION HELD ON OCTOBER 15, 1996

B. RESOLUTION NO. 96-182 - RESOLUTION AWARDING BIDS FOR TWO FIRE PUMPERS

Summary: The consideration of the award of Bid Request No. 459-97 to purchase two fire pumpers for use in the Fire Department.

Pursuant to N. C. Gen. Stat. sec. 143-129, and in compliance with the City's Minority Business Plan, sealed bids were received to furnish one (1) fire rescue pumper and one (1) pumper retrofitted with a telesquirt for the Fire Department. Two bids were received as follows:

Vendor	Net Cost
Bid Item No. I:	
Chief's Fire & Rescue Inc., Jefferson, NC	$146,950.00
KME Fire Apparatus, Nesquehoning, Pennsylvania	$180,381.08
Bid Item No. II:	
KME Fire Apparatus, Nesquehoning, Pennsylvania	$222,281.00

These units will be an addition to the City's fleet. Bids have been reviewed for technical compliance to specifications by the Fire Department and Fleet Management, and their concurrence received in the following recommendation.

Subject to Council's approval, it is recommended that the bid be awarded as follows:

Bid Item No. I:
Award to the second low bidder, KME Fire Apparatus, in the amount of $180,381.08 for the purchase of a 1996 Freightliner model FL-80 with a KME Rear Mount Rescue Pumper.

The low bid from Chief's Fire & Rescue, Inc., is not recommended because the unit they proposed to furnish fails to meet minimum bid requirements/specifications. Major exceptions include a lighter weight

cab and chassis than specified and failure to provide passenger compartments large enough to transport assigned firefighters.

Bid Item No. II:
Award to the sole bidder, KME Fire Apparatus, in the amount of $222,281.00 for the purchase of a 1996 KME model MFD with a 174 Aerial retrofitted with a Telesquirt from vehicle no. 922.

In addition to evaluating bids for compliance to specifications, etc., cost was also considered. When compared to other governmental agencies cost for like equipment, the amounts bid the City are determined to be fair and reasonable.

Funds for the purchase of this equipment are to be from the Fire Department's appropriations, Account Code 20-420-40-471-00-5741. (Item no. (I) is budgeted to be acquired by lease/purchase arrangements, funds for item no. (II) to be provided in FY 96/97 budget, as amended.)

RESOLUTION BOOK NO. 23 - PAGE 316

C. **RESOLUTION NO. 96-183 - RESOLUTION OF INTENT TO SET A PUBLIC HEARING ON NOVEMBER 26, 1996, TO CLOSE EVELAKE DRIVE WHERE IT DEAD ENDS AND INTERSECTS WITH THE CITY OF ASHEVILLE TERRITORIAL LINE, ADJACENT TO HAZEL TOWNSHIP**

RESOLUTION BOOK NO. 23 - PAGE 318

D. **RESOLUTION NO. 96-184 - RESOLUTION SETTING A PUBLIC HEARING ON NOVEMBER 12, 1996, TO CONSIDER THE ANNEXATION OF SECTION VIII OF BRAESIDE (BURNSIDE PHASE 1 AT BILTMORE PARK)**

RESOLUTION BOOK NO. 23 - PAGE 319

E. **RESOLUTION NO. 96-185 - RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE N.C. DEPT. OF ENVIRONMENT, HEALTH & NATURAL RESOURCES TO FUND THE AFTER SCHOOL FOOD SERVICE PROGRAM**

Summary: Funds are available through the North Carolina Department of Environment, Health and Natural Resources, Division of Maternal and Child Health, Child and Adult Care Food Program to provide breakfast, lunch, and snacks. The City of Asheville wishes to apply for funding to provide food service in the After School Program.

The Parks and Recreation After School Program provides supervised licensed child care, recreation, enrichment activities, and food service to children ages 5 to 12 during after school hours and holidays at seven program sites. Sites are located at Claxton, Dickson, Hall Fletcher, Jones, Randolph, and Vance Elementary Schools; and Reid Recreation Center. Sites are licensed by the State of North Carolina with a child/staff ratio of no less than one staff person for 15 children. Breakfast is provided as needed, and after school snacks provided daily. Lunch is provided on holidays and teacher work days. Activities include arts and crafts, games, sports, science, music, free choice time, and computer lab. Fees are based on the number of children from each family and frequency of attendance. Parks and Recreation will contract with Asheville City Schools for food service at a rate of $.75 per breakfast, $1.25 per lunch, and $.60 per snack. The grant will reimburse Parks and Recreation approximately one third of the cost of providing food service in the After School Program. The number of meals will vary based on the total meals actually served each month.

The Parks and Recreation Department recommends the City of Asheville apply for the grant funds through the Child and Adult Care Food Program.

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F. RESOLUTION NO. 96-186- RESOLUTION APPOINTING MEMBERS TO THE CITY BUSINESS AND DEVELOPMENT COMMITTEE

Summary: Ord. 2309 established the City Business and Development Commission. Said ordinance authorizes various agencies to appoint members to the Commission and those agencies have now identified their appointments.

The following members are hereby appointed to an initial one -year term: Dan Ray (Advantage West), Jay Garner (Chamber of Commerce), John Fleming (Asheville Downtown Association), Scott Jarvis (Asheville Downtown Commission), and Bob Roberts (Asheville Merchants Association).

The following members are appointed to an initial two-year term: Barbara Field (City Council), Bruce Tompkins (Biltmore Village Merchants Association), Winston Pulliam (Buncombe County), Richard Nantelle (Coalition of Asheville Neighborhoods), and Albert Sneed (Council for Independent Business Owners).

The following members are appointed to a three-year term: Tommy Sellers (City Council), James Geter (Eagle/Market Streets Development Corporation), Rebecca Anderson (HandMade in America), Ed Metz (RiverLink), and Stom Peterson (West Asheville Business Association).

Mr. H.K. Edgerton, President of the NAACP, reminded City Council that the NAACP would like to have representation on this Commission. Vice-Mayor Field responded that when the City Council Boards & Commissions Committee meets, they will discuss that request.

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G. RESOLUTION NO. 96-187 - RESOLUTION AUTHORIZING ENMARK CORPORATION TO DISPENSE GASOLINE AT UNATTENDED SERVICE STATIONS

Summary: The consideration of a request from the Enmark Corporation asking the City's permission to dispense gasoline and diesel fuel from its two Asheville service stations when those stations are unattended.

A number of service stations around the U.S. provide for customer access to gasoline and diesel fuel when the station is unattended. This access is most often via special credit card.

It is possible for such facilities to be safely operated if safety concerns are satisfied.

The Enmark Corporation has asked for permission to operate two such service stations in Asheville. Enmark officials have met with the Fire Chief and staff of the Fire Department's Life Safety Division to identify how an unattended service station could be operated in the safest possible manner. The conditions identified include:

- telephone within 75 feet (handicapped-accessible)
- emergency fuel shutoff within 75 feet (handicapped-accessible)
- signs with clear emergency-action instructions

- limit on the amount of fuel that can be dispensed from any automated pump
- on-site availability of sufficient flammable-liquid absorbent material to handle a fuel spill at the fuel-dispensing limit
- U.S. Department of Transportation-approved container for holding absorbent material after any spill
- time limit for removal of contaminated absorbent by certified waste disposal firm after a spill

Enmark Corporation has agreed to these conditions. The Asheville Fire Code requires City Council approval, which is recommended by the Fire Chief.

Based on Enmark Corporation's agreement to the conditions described above, the Fire Chief of the City of Asheville recommends City Council adoption of a resolution authorizing the Enmark Corporation to operate two service stations capable of unattended fuel dispensing after regular service station hours.

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H. **RESOLUTION NO. 96-188 - RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT AND RELATED DOCUMENTS FOR THE INSTALLMENT PURCHASE OF A FIRE TRUCK**

Summary: The consideration of the authorization for execution of documents in connection with the installment purchase of a fire truck.

The City of Asheville Capital Improvements Plan ("CIP") includes an appropriation in Fiscal Year 1996-97 for the installment purchase of a pumper fire truck. The CIP anticipated financing the purchase at 5.50% interest for 10 years.

City Council will have earlier in their October 22, 1996, meeting, approved the purchase of a 1996 Freightliner model FL-80 with a KME Rear Mount Rescue Pumper at a bid price of $180,381.08.

To obtain the best cost of funds for financing the fire truck, the Finance Department used a Request for Proposal process to solicit proposals from 20 banks and other financing companies. The lowest cost response was submitted by United Financial of North Carolina, Inc. Their proposal includes a 5.24% interest rate for the duration of the financing and includes no closing costs or origination fees.

This resolution will authorize the Mayor, City Manager and City Clerk and/or Finance Director to execute any and all documents for funding the purchase of the fire truck at a principal purchase amount not to exceed $180,381.08.

The Finance Department recommends approval of the resolution.

RESOLUTION BOOK NO. 23 - PAGE 325

I. **MOTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO SOLICIT QUOTES TO DEVELOP METHODS TO MORE RELIABLY HANG AND MAINTAIN HOLIDAY LIGHTING AND TO MAINTAIN HOLIDAY LIGHTING IN SUBSEQUENT YEARS**

J. **MOTION AUTHORIZING THE PLANNING & DEVELOPMENT DEPARTMENT TO PREPARE AND SOLICIT REQUESTS FOR PROPOSALS FOR A PARKING STUDY FOR ALL OF DOWNTOWN ASHEVILLE, AND TO ADD BILTMORE VILLAGE AND HAYWOOD ROAD AS ADD ALTERNATES TO THE REQUEST FOR PROPOSALS**

K. **MOTION AUTHORIZING THE CITY BUSINESS AND DEVELOPMENT DIVISION TO DEVELOP A STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT FOR THE CITY**

L. **MOTION TO PERMIT CURBSIDE MANAGEMENT INC. TO ASSIGN ANY RIGHTS IT MAY HAVE TO FUNDS THAT MAY BECOME DUE UNDER THAT CONTRACT BETWEEN CURBSIDE MANAGEMENT INC. AND THE CITY OF ASHEVILLE FOR CURBSIDE RECYCLING SERVICES DATED THE 1ST DAY OF OCTOBER, 1996, TOGETHER WITH ALL PRESENT AND FUTURE INDEBTEDNESS, ACCOUNTS RECEIVABLES, ALL PROCEEDS OF SAID ACCOUNTS RECEIVABLES, AND ALL ACCESSIONS, ADDITIONS, REPLACEMENTS AND SUBSTITUTIONS RELATING TO ANY OF THE FOREGOING**

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Sellers and carried unanimously.

Ordinances:

A. **ORDINANCE NO. 2323 - ORDINANCE AMENDING ARTICLE II, DIVISION I, SECTIONS 22, 23, 24, 26 AND 28 OF APPENDIX C OF THE CODE OF ORDINANCES RELATIVE TO SPEED LIMITS**

Summary: Change to 15 mph on Reservoir Road; Change to 20 mph Baker Drive Extension (entirety), Wood Avenue (entirety), Bradley Road (entirety), Edgewood Road (South) (entirety), Westwood Road (entirety), Stoner Road (entirety), Trappers Run (entirety), Granada Street (entirety), Cordova Street (entirety), Stewart Street (entirety), Short Michigan Avenue (entirety); Change to 25 mph Baker Drive (entirety), Sleepy Hollow Drive (entirety), Edgewood Road (Enka) (entirety), Oakley Road (entirety), Vermont Road (entirety), Michigan Avenue (entirety), Mitchell Avenue (entirety); Change to 35 mph Fairview Road - from Sweeten Creek Road to NC 81) and Brevard Road (from I-240 to Haywood Road [US 19-23 Business]); and Establish at 45 mph Brevard Road - from Sardis Road to I-240.

ORDINANCE BOOK NO. 16 - PAGE 103

B. **ORDINANCE NO. 2324 - BUDGET AMENDMENT FOR THE PURCHASE AND INSTALLATION OF ADDITIONAL SHELTERS AND BENCHES FOR THE TRANSIT SYSTEM**

Summary: The City of Asheville received another capital grant for the purchase and installation of additional shelters and benches for the transit system.

The City of Asheville applied last year for another capital grant in the amount of $110,000 for the purchase and installation of additional shelters and benches to be placed at specific locations along bus routes. These shelters and benches will add to the existing ones that have already shown to be a positive asset to the transit system. A

budget amendment is required to place this funding into the system. The City's CIP has outlined this project the past two years.

The Planning staff and the Asheville Transit Authority recommend that City Council adopt the proposed budget for the purchase and installation of the additional shelters and benches.

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Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Skalski moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Hay.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and only reading.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL AND VARIANCE REQUEST FOR WINGATE INN LOCATED AT 2 KENILWORTH KNOLL

Mayor Martin opened the public hearing at 5:07 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that this proposal is for a four-story, 140 room Wingate Inn to be located at 2 Kenilworth Knoll.

The property totals approximately 6.75 acres and is zoned CH commercial highway. The property will be subdivided and a 1.4 acre outparcel will be created. This is considered a minor subdivision and has been approved by staff.

A variance is requested from the requirement that a parking lot buffer be placed between the Wingate Inn parking lot and an adjacent lot.

Staff has received no public comment regarding this project.

The Planning and Development staff recommends approval of the group development.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group Development and the variance request. The recommendation regarding the variance was contingent upon the required number of trees being provided elsewhere on the site.

Mayor Martin closed the public hearing at 5:09 p.m.

Councilman Worley moved to approve the site plan and variance request for Wingate Inn. This motion was seconded by Vice-Mayor Field and carried unanimously.

B. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL AND ZONING VESTED RIGHTS ISSUE FOR BILTMORE HEALTH AND FITNESS PARK LOCATED ON U.S. HIGHWAY 25 AND I-40

Mayor Martin opened the public hearing at 5:10 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that this proposal is for a medical/office complex to be located off Hendersonville Road just south of I-40.

The 9.9 acres is zoned CH Commercial Highway and CS Commercial Service. The proposal consists of three buildings. Building A is a proposed two story medical office building and is 60,895 square feet. Building B is a proposed four story medical office building and is 94,986 square feet. Building C is a proposed three story wellness center and is 40,000 square feet. This is a total of 195,881 square feet. Adjacent zoning is CH Commercial Highway to the South, I-40 right-of-way to the North, and the Town of Biltmore Forest to the West. The proposal meets all zoning and group development requirements.

The developer has requested vested zoning rights pursuant to Article 14, Section 30-14-1 of the City Code.

Staff has received no comments in opposition to the group development.

At their October 2, 1996, meeting the Planning and Zoning Commission voted unanimously to recommend approval of the group development with one condition: (1) letter of agreement regarding parking, drainage, and graded needed from Church.

Vice-Mayor Field was pleased that parking lots are being shared. She hoped the Planning Department would encourage that more in the future.

Mayor Martin closed the public hearing at 5:14 p.m.

Vice-Mayor Field moved to approve the site plan and granted the zoning vested right for Biltmore Health & Fitness Park. This motion was seconded by Councilman Sellers and carried unanimously.

IV. UNFINISHED BUSINESS:

A. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A NON-WARRANTY DEED TO DAWN H. LANTZIUS

Mayor Martin said that this matter was originally brought before Council on August 13, 1996, and continued until September 24, 1996. The matter was then continued until this date to give the parties in the area time within which to see if the issue could be resolved.

Councilman Cloninger asked that he be excused from voting because his firm, of which he is a partner, represents Ms. Lantzius. Therefore, Councilman Worley moved to excuse Councilman Cloninger from voting due to a conflict of interest. This motion was seconded by Vice-Mayor Field and carried unanimously.

City Attorney Slawter said that the parties have again requested that this matter be postponed until November 26, 1996. He said the parties in the area who have an interest in this alleyway and courtyard have come to a tentative agreement and the paperwork has been drafted.

The conclusion is in the final stages to totally resolve this issue without the City of Asheville taking any role in it.

Vice-Mayor Field moved to continue this matter until November 26, 1996. This motion was seconded by Councilman Worley and carried unanimously.

B. ORDINANCE NO. 2325 - ORDINANCE TO REZONE 9 LOTS IN THE BURTON STREET AREA FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CS COMMERCIAL SERVICE DISTRICT

Mayor Martin said that this public hearing was held on October 8, 1996, and tabled until this date.

Mr. Carl Ownbey, Urban Planner, reminded Council that the original petition was to rezone 15 lots from R-3 Medium Density Residential to CS Commercial Service. Two lots were recommended to be added by the Planning staff that were not part of the original petition so that there would not be an illegal spot zoning. Prior to the request being considered by the Commission, two property owners withdrew their request for the rezoning of their three lots on the west side of Burton Street (PIN Nos. 9639.14-44-3992 & 4927 and 9638.10-45-4022) leaving the rezoning request for a total of 14 lots. The Planning staff reviewed the rezoning request and recommended approval of just 11 of the lots and deny rezoning of three lots (PIN Nos. 9638.10-45-4124, 4228 and 5401). The 11 lots recommended for rezoning are identified as PIN Nos. 9638.10-45-6027, 6187, 6285, 6365, 6477, 7033, 7038, 7356 and 7593 and 9638.10-44-6919 and 7928 and are all on the east side of Burton Street.

The subject properties are approximately 6.5 acres. The 17 lots are located on Burton Street just north of Haywood Road. The 17 lots contain eight residential structures, two commercial structures, six vacant lots, and two lots with commercial storage. The 2010 Plan recommended this area be low density residential with some commercial on the southern fringe. The subject properties are surrounded on the north and west by residential, on the east by I-240, and on the south by commercial. The existing commercial structure and the surrounding vacant lots on the east side of Burton Street have potential for commercial development. The lots on the west side of Burton Street, that are not vacant, have existing residential structures.

At the September 4, 1996, Planning & Zoning Commission meeting, the Commission voted 5-2 to recommend approval of the rezoning of the 11 lots on the east side of Burton Street.

Mr. Ownbey said that a valid protest petition has been filed.

Mayor Martin read a letter dated October 17, 1996, from Mr. Spiro Aliferis, 495 Haywood Road, Asheville, N.C.. The letter reads "In order to minimize the impact on the residential neighborhood from my proposed commercial rezoning, I request that the proposed zoning line be moved south as outlined: Beginning at a point, on the western property line of Tax Lot 6477, seventy (70) feet south of the southwest corner of Tax Lot 6567 and extending a line in an easterly direction to the northwest corner of Tax Lot 7356, then following the north property line of Tax Lot 7356 east to the right-of-way of I-240. This should give sufficient buffer to the residential neighborhood on Burton St."

Mr. Aliferis said that this revision to the rezoning request will result in an extra buffer to the residents and it will also nullify the protest petition.

Upon inquiry of Councilman Cloninger, Mr. Ownbey said that when Mr. Aliferis comes back for a small project review to develop his property, he will have to comply with additional buffering requirements.

When Vice-Mayor Field asked if Mrs. King's lot could be left out of the rezoning request since she did not want her property rezoned, Mr. Ownbey said that her lot (PIN No. 9638.10-44-6919) could be left out and it would not be spot zoning.

The following residents spoke in opposition to the rezoning request for various reasons, some which are: neighborhood does not want commercial encroachment into this residential area; the area in question is already an eye sore on Burton Street; neighborhood is trying to clean up the drug problems in the community and allowing commercial intrusion has the neighbors concerned; increase of commercial traffic; there are many children in the area who walk to and from the community center; it is unfair to have someone's property rezoned against their will; the City was mistaken to rezone this property commercial from the very beginning; commercial traffic should not be allowed on the residential Burton Street; the entire community should not be punished because one businessman made a mistake by spending $40,000 to renovate his building when he knew his building was on residential property; the Burton Street community wants to remain residential; Mr. Aliferis does not live in the area and will not see the problems associated with commercial development in the evening hours; the area residents want housing in the community; the area already has a lot of junk cars; area residents are doing a lot of work to preserve and enhance their neighborhood and they do not want commercial encroachment; and the commercial development does not add to the fullness of the neighborhood to create the neighborhood/ commercial balance:

Ms. Gloria Johnson, 87 Burton Street and spokesperson for the Burton Street community
Mr. James Woody, area property owner
Ms. Teresa Daugherty, Secretary of the NAACP
Ms. Martha Wiggins, Burton Street resident
Mr. H.K. Edgerton, President of NAACP
Rev. Carl Arrington, 73 Taft Avenue and Pastor of the Wilson Chapel United Methodist Church located on Burton Street
Mr. Gennett, area resident
Mr. Tony Sayer, West Asheville resident
Mr. Earl Cobb, West Asheville resident
A resident of 16 Samayoa Road
Rev. Young, Pastor of St. Paul Baptist Church in West Asheville
Mr. Lawrence Peterson, West Asheville resident
Ms. Maggie Sims, Burton Street resident
Ms. Pauline Young
Mr. Linwood Crump, Shiloh resident
Ms. Gudger, West Asheville resident

Mayor Martin said that the property is already being used in a commercial fashion and has been for a long time.

Councilman Cloninger felt that the compromise Mr. Aliferis is suggesting would be preserving the current use of that property and would also expand the buffering protection for the neighborhood. He felt the compromise would not change the looks of the neighborhood.

In response to Councilman Sellers about what other uses are allowed in the R-3 district, Mr. Ownbey said that the R-3 zoning will allow 16 apartment units per acre and there is approximately three acres. Councilman Sellers felt that with apartments on that property, there would be an additional 25-40 cars a day compared to a warehouse where people would not be going there every day.

Upon inquiry of Mayor Martin, Mr. Ownbey said that with the compromise suggested by Mr. Aliferis, there would not be a valid protest petition.

Mr. Richard Nantelle, resident of West Asheville, suggested that Council might consider limiting the use of Burton Street to only residential traffic. Perhaps Burton Street (from Baker Street to Patton Avenue) could be designated as no truck traffic.

Councilman Sellers moved to instruct the City Manager to initiate a traffic study prohibiting trucks from traveling on Burton Street, from Baker Avenue to Patton Avenue. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Skalski voting "no".

Mr. Ownbey said that if City Council decided to proceed with Mr. Aliferis' compromise, the Planning Department would withdraw their recommendation to rezone PIN No. 9638.10-45-7593.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Sellers moved to rezone PIN Nos. 9638.10-45-6027, 6187, 6285, 6365, the southern portion of 6477 (as described in Mr. Aliferis' letter dated October 17, 1996), 7033, 7038, and 7356 and 9638.10-44-7928, and to deny rezoning of PIN Nos. 9638.10-44-6919 and 9638.10-45-7593, and the northern portion of PIN No. 9638.10-45-6477 for which Mr. Aliferis withdrew his request. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 6-1 (with Councilman Skalski voting "no"), Ordinance No. 2325 passed on its first and final reading.

Mr. Aliferis read a statement "To the Honorable Russell Martin, Members of Asheville City Council and the citizens of Asheville, North Carolina. I regret that I must use this particular forum to address an issue relevant to the meeting today and possibly future meetings concerning this Council. As you know I have assumed at great expense, both in time and money, to bring about a positive and constructive change with this rezoning request, and I appreciate the passage. I have learned much about our community and the people that represent it. Unfortunately during this process, I have met a member of this City Council that is lacking in ethical principles. I was warned repeatedly not to associate myself with this person. This individual called me several times after the previous meeting to ensure me that this rezoning request was going to be his project for the next few weeks. Because he thought this was going to be good for all concerned. He was going to make sure that this would pass because he supported it. In one phone conversation he asked me to meet with him and the Burton Street neighborhood with the sole purpose to discuss this rezoning and voice our concerns. I agreed to attend, hoping this would resolve many of the questions and inaccurate answers that were running rampant at the time. The meeting was actually a sacrificial offering with me as the main menu. Instead of supporting my proposal, this Councilman used me to present himself as a champion for their rights. He started drilling me with constant negative comments, offered me no hope to resolve any differences, but on the contrary put me on the defensive immediately. I

never realized one person could be so purposely deceitful and manipulative. This meeting was a disaster. Not only did it not resolve issues, it contributed to ill feelings for all concerned. The entire episode has left me in total disbelieve that this one individual is actually allowed to serve on this Council representing the City of Asheville, North Carolina. It seems that the fine people of Asheville have entrusted their faith and future in the wrong person. I was duped into believing this man. I'm sure the voters who entrusted him with their future will feel the same way. Lies, whether covered up with speeches of promises, are still lies. This statement is addressed specifically to you, Mr. Skalski. The position you hold is one of great responsibility. You are obviously aware of that. This position should be and has to be used for the benefit of the City as a whole and not just special interest groups which you tend to favor, simply because it means votes. Your allegiance to these groups is apparent. You told me you have 10,000 assured votes and asked me if I could give you the same. I obviously cannot match the stakes, but you can be assured that my vote will count for the future of this community and not to yourself glorifying election. Thankfully there are more than 10,000 people in Asheville. I ask you today to consider your constituents and let someone with integrity, honestly and moral ethics take your seat on this Council. I do not think that a person such as yourself should be in the policy-making position for the City of Asheville. To the remainder of the Council members, I believe you to be capable individuals that can make judgmental decisions given all the facts. With the exception of Mr. Skalski, I do respect the position you hold and will continue to do my best to be supportive."

ORDINANCE BOOK NO. 16 - PAGE 107

V. NEW BUSINESS:

A. RESOLUTION NO. 96-189 - RESOLUTION ADOPTING THE RECOMMENDATION OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY AND AWARDING THE BIDS FOR THE MILLS RIVER WATER TREATMENT FACILITY PROJECT

Due to a conflict of interest in which Councilman Cloninger represents Hayes and Lunsford, Vice-Mayor Field moved to excuse Councilman Cloninger from voting. This motion was seconded by Councilman Sellers and carried unanimously.

Mr. Mike Holcombe, Director of Water Resources, said that the Asheville-Buncombe Water Authority ("ABWA") has awarded construction contracts for the Mills River Water Treatment plant and the connecting water transmission main, and is recommending that the City Council award them as well.

On Wednesday, September 11, 1996, the ABWA received bids for the Mills River Water Treatment Plant and it's 24" Water Transmission Main. For the Water Treatment Plant, bids were received for a single prime contractor as well bids for a general, electrical, HVAC and plumbing contractor. Unfortunately, the bid for the single prime contractor was slightly in excess of the bids for the individual components and the ABWA pursued the award of four individual contracts. In summary the low bids for these four components after negotiation are:

		NEGOTIATED BID AMOUNT
GENERAL CONTRACTOR:	METRIC CONSTRUCTION CO.	$ 17,027,054.00
ELECTRICAL CONTRACTOR:	HAYES AND LUNSFORD	3,069,800.00
HVAC CONTRACTOR:	PYATT HEATING & AIR CONDITIONING	817,924.00
PLUMBING CONTRACTOR:	PRICE PLUMBING	723,270.00
WATER TREATMENT PLANT TOTAL BID PRICE		$ 21,638,048.00

Bids for the 24" Water Transmission Main were also received with the low bidder, after negotiation being:

COOPER CONSTRUCTION COMPANY:	$ 2,761,742.25
PROJECT LOW BID SUB-TOTAL	$ 24,399,790.25

A component of the 24" water transmission main is being installed by the NCDOT as a component of the Airport Road widening project. The estimated cost of this construction is $700,000. Including this amount with the sub-total above results in a:

TOTAL NEGOTIATED LOW BID PROJECT CONSTRUCTION COST	*$ 25,099,790.25*

This project will be funded with $33 million in Revenue Bonds that were sold in September 1996.

On Tuesday, October 15, 1996, the ABWA awarded these five construction contracts.

Staff as well as the ABWA were very comfortable with the modified construction contracts. The completed facility will still be one in which we can all take pride in having been involved in from its conception to its completion. Staff recommends favorable consideration of the resolution.

Mr. Holcombe thanked Mr. John Roberts, Mr. Bill Lapsley, the Asheville-Buncombe Water Authority, City Council and City staff for working so diligently in this endeavor.

Mr. Roberts then briefed the Council on the overall site, noting that the plant is scheduled to be on line in January, 1999. He then answered various questions from Council, one in which was the reason behind the construction of a 24" line rather than a 36" line.

Mayor Martin, on behalf of City Council, was pleased that construction of this facility will soon begin and thanked the community, in addition to the Water Authority, City Council and staff who all worked together to find the best possible water source.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-189. This motion was seconded by Councilman Skalski and carried unanimously.

B. FINAL PLAT APPROVAL FOR DEVONSHIRE SUBDIVISION - PHASE IV

Because his firm represents Beverly-Grant, Councilman Cloninger asked to be excused from voting due to a conflict of interest. Councilman Worley moved to excuse Councilman Cloninger from voting due to a conflict of interest. This motion was seconded by Councilman Sellers and carried unanimously.

Mr. Gerald Green, Senior Planner, said that Beverly-Grant Inc. is requesting approval of the final plat for Phase IV of Devonshire Subdivision located off Hendersonville Road south of the Blue Ridge Parkway.

Phase IV of Devonshire consists of 13 lots for single family homes on 3.83 acres. Access to the lots will be provided by Tiverton Lane, a new street constructed to City standards. The street will be dedicated to the City for ownership and maintenance. Devonshire will consist of 89 single family lots being developed in phases. Approval of the preliminary plat has been granted by the Planning & Zoning Commission. The developers are constructing homes on the lots and selling the home and lot as a package. The subdivision is zoned R-3 and the subdivision plat complies with all requirements of the City's subdivision regulations. The Public Works Department and the Legal Division have reviewed the plat and recommend approval of the plat.

The staff of the Planning & Development Department, the Public Works Department and the Legal Division recommend acceptance of the final plat of Phase IV of Devonshire.

Councilman Worley moved to approve the final plat of Devonshire Subdivision - Phase IV. This motion was seconded by Councilman Sellers and carried unanimously.

C. FINAL PLAT APPROVAL FOR HUNTINGTON CHASE SUBDIVISION

Mr. Carl Ownbey, Urban Planner, said that BWS Enterprises is proposing the development of 40.215 acres of land into a 36 lot residential subdivision in the Haw Creek community. The property is located on the west side of New Haw Creek Road north of the Trapper's Run Subdivision and adjacent to the City limits of Asheville. The developer proposes the construction of a new street to provide access to the lots. The street will be constructed to City standards and access will be from New Haw Creek Road. A letter of credit has been provided to the City to guarantee the construction of the road and other improvements.

The preliminary plat for this subdivision was reviewed and approved by the Planning & Zoning Commission at their February 7, 1996, meeting. The final plat and the letter of credit have been reviewed by the Legal staff, the Public Works staff and the Planning staff. The final plat is being presented for review and acceptance by City Council.

The Planning staff recommends that City Council accept the final plat for Huntington Chase Subdivision.

Councilman Seller moved to approve the final plat of Huntington Chase Subdivision. This motion was seconded by Councilman Cloninger and carried unanimously.

D. MOTION APPROVING EXPENDITURE OF FUNDS FOR FIREWORKS FOR LIGHT UP YOUR HOLIDAYS PREMIERE CELEBRATION

Ms. Debbie Ivester, Superintendent of Administration in the Parks & Recreation Department, said that Through a public/private venture, the Business District Coalition and the City of Asheville wish to propose a method of providing resources for the Light Up Your Holidays Premiere Celebration.

In July, the Business District Coalition agreed to support the production of the Light Up Your Holidays Celebration for the City of Asheville. The celebration includes many coordinated events during the holiday season, completion of a tabloid outlining activities and production of the Premiere Celebration. Sponsors to underwrite the costs of the events have been solicited but it has been difficult to secure a sponsor for the fireworks for the Premiere. Both the City of Asheville and the Business District Coalition feel strongly that the fireworks are a major portion of this event and are necessary in making the entire Light Up Your Holidays a success.

The Parks and Recreation Department budgeted $9,500 for the Light Up Your Holidays Celebration which was to be used for lighting and electrical service. Because of the changes in how we will light the City/County Plaza which has been presented by Public Works, a total of between $4,000 - $5,000 is available for this purpose.

The Planning and Development Department and the Parks and Recreation Department recommend that the balance of funds from the lighting of the City/County Plaza be used for fireworks for the Light Up Your Holidays Premiere Celebration.

Vice-Mayor Field moved to authorize the balance of the funds from the lighting of the City/County Plaza to be used for the fireworks for the Light Up Your Holidays Premiere Celebration. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. CITY OF WILSON

City Manager Westbrook presented Council with a letter of appreciation from Mr. Edward Wyatt, City Manager from the City of Wilson, expressing their appreciation during Hurricane Fran.

B. NETDAY

Councilman Skalski invited everyone to volunteer or donate to NETDAY on October 26, 1996, at an Asheville City School so that they can complete their wiring projects.

C. MUDSLIDES AT BALLANTREE AND PARK AVENUE

Mr. Richard Green read a letter dated October 15, 1996, from Richard H. Green, President, Coalition of South Asheville Neighborhoods to the Asheville City Council. The letter reads "At the last meeting of the Coalition of South Asheville Neighborhoods (CSAN) on October 8, 1996, the Steering Committee gave a report on the mudslides that have plagued Ballantree and Park Avenue. The mudslides are the result of irresponsible development of the hillside above Park Avenue (Phase II) by CBI (Ralph Kiger). The 150 coalition members present voted almost

unanimously to accept the recommendations of that committee. In response to those recommendations CSAN has been requested to write a letter to City Council asking that City Council take the following actions: (1) Launch a full scale investigation into the granting of vested development rights by the City of Asheville in 1990. Jim Coman, Buncombe County Zoning Administrator, claims that neither Buncombe County nor Limestone Planning Council ever granted any of the necessary approvals that were needed for Asheville to vest said development rights (see attached letter from Jim Coman). Furthermore, Jim Coman has stated that he was never contacted by anyone at the City of Asheville to confirm that the alleged approvals had been granted by Buncombe County or Limestone Planning Council. The improper granting of non-existent rights was done solely to circumvent the Hillside Ordinance which would not allow the hillside to be clear cut as it presently has been done; (2) Ask the City Engineer's office why the above mentioned project is not in compliance with the Storm Water Ordinance. Only improper design or improper installation can explain the tremendous increase in storm water run off that is damaging property in Ballantree and Park Avenue. The intent of the Storm Water Ordinance is that post-development run off not exceed pre-development run off. It is evident that there is a serious problem; (3) Ask the Erosion Control office to monitor the project more closely. If the developer cannot contain sediment on his own property, Erosion Control should levy fines and shut the project down until the developer can contain his sediment (mud). In conclusion, City Council is asked to take the above mentioned actions on behalf of the residents of south Asheville. It appears that the City of Asheville took actions in 1990 for which there existed no legal basis. In addition, it appears that at least two different City Ordinances are being violated on a continuing basis by the above mentioned developer."

Mr. Green said that in addition to the above, and he has not been able to verify this, but he was also told by residents of Ballantree and Park Avenue that the developer is also in violation of State law which states that the direction of the runoff flow not be changed materially. Essentially, what they are saying is the percentage of the runoff that previously went to Ballantree has increased substantially. Much of the runoff that previously pre-development went to Park Avenue is now being diverted towards Ballantree. That is in violation of State law and they would also ask that City Council investigate this matter as well. He did ask that City Council indicate whether or not they will investigate the vested development rights matter.

Mayor Martin said that most of these issues were brought up at the Coalition of South Asheville Neighborhood's meeting and immediately after the meeting, City staff started their investigation. He assured Mr. Green that the City will be taking steps to ensure the developer will be in compliance in the future.

Councilman Cloninger suggested the City prepare a written response to Mr. Green after a thorough investigation. He also asked that Mr. Green put the alleged State violation concern in writing so that they may investigate that as well.

Councilman Hay suggested that this item be placed on an upcoming worksession.

Mr. Tony Lewis, City Engineer, updated Council on the stormwater incident at Park Avenue. He said that after a very high intensity storm the project did come out of compliance. Immediately after that, the developer and the project engineer were notified of the notice of violation and the City's representative in the erosion control office met on site with the engineer and developer of the project. They

immediately developed some additional measures to be placed on site. That included two sediment ponds to be installed upstream of the existing detention facility, which has been construction. Those measures are now in place.

Vice-Mayor Field asked Mr. Lewis various questions so that she could understand what the process is in the construction phase when dealing with stormwater. She noted that she supported very much the stormwater ordinance and its implementation.

Mr. Lewis said that they have been in contact with the residents in the area as complaints come in. He said there have been 10 inspections of the site since it began in March of 1996. She said they continue to monitor and pay very close attention to the site.

Mr. Jim Hyde, resident on Park Avenue, reinforced the comments made by Mr. Green.

Councilman Hay felt that perhaps the City's ordinances needed to be strengthened so problems like this do not occur in the future.

Mayor Martin instructed the City Manager to continue the investigation of these concerns and schedule it on an upcoming worksession.

Ms. Phyllis Slagle, resident on Park Avenue, asked who would be responsible for the maintenance of the retention pond and drainage area. Mr. Lewis said that the owner is responsible for any maintenance. If a homeowners association is established, that association would then be responsible. Vice-Mayor Field also noted that the City's ordinance requires that City staff review the detention facility on an annual basis and there is a fee that the City charges for that inspection.

Ms. Carol Hyde, resident in the Pinnacle, urged Council to protect them and others from these type violations.

Ms. Kathy Collins, resident in Ballantree, said that she has left a video tape of the mudslides and urged all Council members to review the tape.

D. CLAIMS

The following claims were received by the City of Asheville during the week of October 4-10, 1996: Charles Saunders (Water), Steven Markarian (Water), Haig Rudd (Water), Joseph Crain (Water) and Jean DuMont (Water).

The following claims were received during the week of October 11-17, 1996: Rev. James W. Hills (Police) and Eugene Auchter (Sanitation).

These claims have been referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:05 p.m.

Magdalen Bowleson
CITY CLERK

MAYOR

Tuesday, October 29, 1996 - 6:00 p.m.
West Asheville Community Center

Community Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Mayor Martin said that he hoped the new format by the City was successful at this community meeting. He summarized by saying that from 3:00 p.m. - 7:00 p.m. City staff was available at the West Asheville Community Center to meet with the community on any issue and to demonstrate the possibilities of communities and City Hall linking up electronically. He said at 6:00 p.m. Councilmen Cloninger and Worley were available to answer questions relative to the Unified Development Ordinance. And then the City Council community meeting began at 7:00 p.m. He stressed that City Council is committed to Community Oriented Government.

Ms. Robin Westbrook, Community and Public Information Officer, and Mr. Larry Bopp, Director of Information Services, each gave a brief presentation on how communities will be able to access information from City government on a computer located at the community center.

Many residents spoke in support of and praised City Council on what the City has been doing in West Asheville.

The following topics were raised by residents and addressed by City Council and City staff: burnt building on Covington Street; house on Sulphur Springs Road has a lot of signs on their property; house on Pennsylvania Avenue has a wall around it that might not be in violation of the zoning ordinance; tractor trailer parked on Haywood Road for three years; buffering concerns with a roofing company in the area; request for City to light the West Asheville/RiverLink Bridge (proposal from Carolina Power & Light Company was passed out); major flooding problems on Druid Drive; need for some type of traffic control device at the intersection of Laurel Loop and Patton Avenue; loitering after hours at 1200 Patton Avenue; need for a walking trail in Malvern Hills; need for sidewalk repairs in Malvern Hills; need for temporary solution (until NC Dept. of Transportation redesigns intersection) to traffic problems on Amboy Road at I-240; parking problems on Frances Street due to narrow street; request to have yard cleaned up at 57 Frances Street; Salola Street needs to be repaved; when I-240 is widened, not only should environmental impact statements be made, but human impact statements too; sewer backups on Druid Drive when there is flooding; traffic noise on Patton Avenue; curfew on Patton Avenue for teenagers; speeding on Laurel Loop; Laurel Loop needs to be paved; need for better traffic control at intersection of Louisiana Avenue and Patton Avenue; streets in Wilshire Park need to be paved, not just repaired; school zones on Patton Avenue from Lucerne to Leicester Highway needs to be better marked and speeds be consistent on both sides of Patton Avenue; and restriction on developments in Druid Drive area until flooding problems are corrected.

Mayor Martin adjourned the meeting at 8:42 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - November 5, 1996 - 3:00 p.m.

Worksession

Present: Vice-Mayor Barbara Field, Presiding; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Mayor Russell M. Martin

CONSENT AGENDA:

Budget Amendment re: First Floor Security Partitions

Summary: The consideration of the purchase and installation of security partitions for the first floor of the City Hall Building.

On June 18, 1996, City Staff met to review recommendations presented by Officer Allen Dunlap of the Crime Prevention Unit and Police Chief Will Annarino, both of the Asheville Police Department, concerning City employee security and interaction with the public in the first floor area of the City Hall Building.

Security measures warrant the relocation of existing office partitions and the addition of new ones that are designed for a public-friendly and safe separation of worker and public areas.

The manufacturer of the existing office partitions and counters has been contacted, design meetings held, and a cost proposal received covering the recommended security changes. The proposed price for these changes is $28,072.17.

The changes to the first-floor office partitions include:
- Four aluminum assemblies (including a total of 4 laminated tops, 2 electric strikes, 1 combination lock, 1 one-piece manual gate package with self closure, 2 signs, and all necessary plywood inserts and fabric installation);
- Eight Allsteel panels with connectors;
- Thirty-five yards fabric with backing to be applied to the plywood inserts;
- Minor painting and patching, where required;

All labor, materials, permits and insurance included.

Funds for this expenditure were not budgeted and therefore a request to City Council is needed for a budget amendment. Staff recommends a budget amendment from the Contingency Fund to cover this new budget expenditure.

Staff requests approval of budget amendment by City Council to obtain additional funding, and requests that Council direct the City Manager to enter into a contract with the security partitions supplier for the addition of first-floor security partitions in the City Hall Building.

Councilman Hay wanted to make sure that these partitions would be customer friendly.

Budget Amendment re: Fair Housing Assistance Program

Summary: The consideration of a budget amendment in the amount of $16,900 to be appropriated for additional Fair Housing Assistance program grant funds.

On April 28, 1987 the City of Asheville was recognized by HUD as having a fair housing enforcement program which is substantially equivalent to those of the Federal Fair Housing Act. The City has been carrying out its fair housing program under contract with the Asheville-Buncombe Community Relations Council and Fair Housing Commission since January 1988. This action will continue federal funding for the program.

The City has received approval from HUD for funds in the amount of $16,900 for the Fair Housing Assistance Program. This will be the tenth year of funding through this program. The funding represents $11,900 for complaint processing and $5,000 for mandatory training of staff. The program is administered under contract by the Asheville-Buncombe Community Relations Council which provides staff support to the Asheville-Buncombe Fair Housing Commission. The City Community Development Division serves as Lead Entity and monitors the program.

Community Development staff recommends adoption of the budget amendment.

Recycling - Ordinance Amendment

Summary: In order to authorize the Public Works Department to implement a residential curbside recycling service, Chapter 15 (Solid Waste Management) of the Code of Ordinances of the City of Asheville must be amended.

Due to the waste reduction goals set by the State of North Carolina and great public interest in preserving the environment by reducing the amount of municipal solid waste sent to landfills, the City of Asheville should expand recycling services. The amendment to Chapter 15 of the Code of Ordinances sets forth the administration and regulations pertaining to the expansion of residential recycling services offered by the City of Asheville.

Under the Ordinance, the implementation of recycling services will fall under the jurisdiction of the Office of the Waste Management Coordinator. The Office will be responsible for coordinating a curbside residential recycling program for household customers and providing assistance to businesses, commercial establishments, and multi-family dwellings in setting-up recycling programs.

In order to amend the Fees and Charges Manual of the City of Asheville to set fees for residential recycling services, Chapter 15 of the Code of Ordinances of the City of Asheville must be amended to authorize the City to provide curbside residential recycling services. On June 25th, City Council awarded a contract for curbside recycling services for approximately 24,000 households to Curbside Management, Inc. In conjunction with this action, the Code of Ordinances must be amended.

The Public Works Department recommends the adoption of the Ordinance amending Chapter 15 (Solid Waste Management) of the Code of Ordinances of the City of Asheville.

Recycling - Fees

Summary: In order to implement the curbside residential recycling program, starting January 6, 1997, the Fees and Charges Manual must be amended to allow for the charging of recycling services.

On June 25, 1996, the City Council unanimously approved the awarding of the residential curbside recycling contract to Curbside Management, Inc. The cost for the curbside program is $1.51 per household. Fifty percent of the cost of the collection program are to be charged to the citizens of Asheville as part of the utility bill statement. At present, the rate set forth will be $0.75 per month. The rate per household per month may be adjusted annually in the amount not to exceed the Consumer Price Index published by the Bureau of Labor Statistics.

The Fees and Charges Manual must be amended in accordance with the Recycling Ordinance which requires the delivery of residential recycling services. This amendment will allow for the billing of services in addition to monthly water and wastewater charges.

The Public Works Department recommends the adoption of the Resolution amending the Fees and Charges Manual of the City of Asheville to establish fees related to residential recycling services.

Vice-Mayor Field asked that the record show that City Council has received this information and instructs the City Manager to place these Consent Agenda items on the next formal City Council agenda.

STORMWATER CONCERNS - PINNACLES AT PARK AVENUE

Mr. Tony Lewis, Technical Services Director of the Engineering Department, said that staff is providing information regarding the development of The Pinnacle at Park Avenue, Phase 2.

The City Council received letters from Mr. Richard Green, President of the Coalition of South Asheville Neighborhoods dated October 15, 1996, and October 23, 1996. As a part of Mr. Green's letters, he raises concerns involving the development of The Pinnacle at Park Avenue, Phase 2. The issues pertain to stormwater runoff, erosion control and vested development rights. The Engineering Department and the Planning and Development Department are providing information to address these concerns. Additionally, staff has requested the developer, Mr. Ralph Kiger with CBI, attend the work session as a part of the discussion of this project. Staff will review each of the issues individually in this report.

Project Description:

Development of The Pinnacle at Park Avenue, Phase 2, involves the construction of 22 residential units on a 13.34 acre site. The site is steeply sloping, with an average gradient of about 30%. Because of an increase in the impervious surface, a stormwater collection system was required including on-site detention.

Erosion Control:

Enderle Engineering developed the Stormwater/Erosion Control plan and submitted it to the Engineering Department in March, 1996. During the construction phase of the development, sediment control was achieved by a 1500 LF of silt fence along the north and west perimeters of the site. Within the site, sediment basins were installed at all stormwater drainage inlet structures and check dams were constructed in the major

cross-slope drainage ditches. A mud mat was installed on the road leaving the site. Water leaving the site at the lowest point is filtered through a rock dam.

Stormwater System:

A stormwater drainage system has been proposed for the development which will discharge the 50 year storm. Pipe locations and identifiers are shown in Drawing 032795-2D. The design included the required pipe diameters and lengths, with upstream and downstream elevations, and shows the water velocity at normal depth at the peak flow during the 10 year storm.

The storm drainage pipe material for this project will be high-density polyethylene. Its superior performance in wet-dry cycling conditions recommends it for use in the stormwater detention environment. Its annular corrugations promote pipe stability in the steep installations required in this site.

An integral part of the drainage system is a number of ditches that cross the site with minimum slope. They have been designed to ensure that the velocity of peak flows in the 10 year storm do not exceed the permissible value of 5.00 FPS (ref.: City of Asheville Stormwater Manual, Sec. VIII, Open Channel Design Standard, Note 1).

During construction and before grass becomes established, the ditches will be lined with an erosion control fabric. This has been shown to be stable for 10 year storm flows.

Staff has made frequent inspections of this project during its development. The measures were properly installed per the design and were maintained after rainfall events.

On September 30, 1996, the storm which occurred in the South Asheville area placed the site in a non-compliance status with the City's erosion control ordinance. Staff viewed the site and issued a "Notice of Violation" to owner/developer, Ralph Kiger.

Staff outlined the following erosion control measures be done:

1) Divert drainage ditch along Park Avenue to discharge at the large detention basin.
2) Check all silt fences, repair or replace as needed.
3) Repair gravel, mudmat at entrance to construction site.

In addition to these corrective actions; the project engineer directed the contractor to:

1) Construct 3 sediment ponds on-site upstream of the detention site.
2) Drain all cross ditches to sediment ponds for stormwater discharge.
3) Place rock check drain in all cross ditches.

The notice allowed the owner six days to meet compliance before levy of a civil penalty. The project site was returned to compliance within the required time.

Maintenance of Stormwater System:

Staff has spoken with Mr. Ralph Kiger about maintenance after project completion. In addition to provisions outlined in the stormwater

ordinance with regard to the detention pond, CBI Homes will draft restrictive covenants requiring payment of homeowner fees to, among other things, provide for collection system maintenance for the project. Once a copy of the document has been provided, it will be incorporated into the project file. This is consistent with the requirements of the Asheville Stormwater Manual.

Diversion of Natural Channel:

Recently, homeowners in Ballentree Subdivision stated that they felt stormwater had been diverted from a prior route onto their subdivision. After reviewing the site in the field and discussions with the project engineer, staff has found no evidence that the any diversion of stormwater runoff has occurred. Blockage from an existing pipe was removed in order to allow the stormwater to flow through the previous channel. Based on staff review, it appears this culvert has always existed in the development but has not been properly maintained and kept free of debris.

Changes to Ordinance:

During the discussion of this item at the October 22, 1996, Council meeting, staff was requested to outline any items of the Stormwater Ordinance that may need to be revised to protect against similar problems in the future. The circumstances of these stormwater and erosion control problems for this project stem for the terrain conditions of this site. With steep slope excavation and storms which exceed the design factor of a 10 year frequency, it is highly unlikely that any measures would adequately satisfy all conditions during the construction phase of the project. The current stormwater ordinance does allow for the Engineering Department to request additional stormwater and erosion control appurtenances if a site becomes non-compliant with the ordinance. This occurred and the owner/developer was more than receptive to providing the additional measures.

Staff is currently working with the Planning and Development Department on stormwater issues as part of the Unified Development Ordinance. Possible changes to be incorporated to limit this event from reoccurring would be to:

1) Limit construction for disturbed area of project sites that have slopes greater than 20 to 25%. This would reduce the amount of exposed surface area during excavation. An example would be that if the proposed disturbed area (actual development area) in total is 25 or more acres, then the developer would only be allowed to excavate 5 acres at a time and would be required to establish a permanent groundcover before the next 5 acres could be excavated. This requirement is being recommended for inclusion in the Unified Development Ordinance ("UDO").

2) Require the Project Engineer to submit an Erosion Control Study based on a 25 year or 50 year storm for project sites that have slopes greater than 20 to 25%. This would analyze the need of sedimentation ponds and other measures required to retain sediment on site in the event of a torrential rainfall event. Based on that analysis, sediment retention measures could be placed at the beginning of construction thereby minimizing effects of high rainfall intensity storms. Likewise, staff has coordinated the inclusion of this item in the UDO.

Vested Rights:

Ms. Julia Cogburn, Planning & Development Director, said that in the October 15, 1996, letter, Mr. Green requested a "full scale

investigation into the granting of vested development rights" for The Pinnacle at Park Avenue, Phase 2 development. Staff has reviewed file information on this question and completed the investigation.

On June 5, 1990, the Western North Carolina Service Corporation, a subsidiary of Clyde Savings Bank, requested issuance of a City zoning permit based upon approval of a conditional use permit by the Board of Adjustment of the Limestone Planning Council of Buncombe County for Phase II of the development known as Park Avenue. The approval by the Buncombe County Board of Adjustment was for 41 condominium units. At the time the request was made, 12 of those units had been either commenced or completed and the property owner desired to proceed with construction of the remaining 29 condominium units.

The Buncombe County Board of Adjustment had approved a revised site plan and a conditional use permit for the 41 units on April 8, 1987. A larger area which included the Park Avenue property was annexed by the City of Asheville in 1989. At the time of that annexation, N. C. Gen. Stat. sec. 160A-360(i) provided that a person who had acquired vested rights under a permit issued by Buncombe County could exercise the rights allowed under that permit as if no change in zoning jurisdiction had occurred. When the property owner made its request to the City for approval in 1990, North Carolina law allowed a developer to establish vested rights to proceed with or continue a phased development by one of two methods: (1) showing that a valid outstanding building permit had been issued by either the city or county with jurisdiction at the time; or (2) showing that the developer had made substantial expenditures in good faith reliance on a valid governmental approval with resulting detriment if the developer was required to comply with new regulations.

In the case of Phase II of the Park Avenue development, building permits had been issued for 12 of the 41 units which had been approved by the Buncombe County Board of Adjustment, but not for the remaining 29 units. From information provided to the City by the property owner in 1990, the property owner showed it had made substantial expenditures in reliance upon the approval by the Buncombe County Board of Adjustment. Those expenditures included payment of professional services fees to architects, engineers, and surveyors as well as completion of the rough grading for the road and installation of culverts in the road for the remainder of the Phase II area. Based upon that evidence of substantial expenditures made by the developer in good faith reliance and upon the approval by the Buncombe County Board of Adjustment, it was determined that the developer might be successful in a North Carolina court in it showing that it had "common law vested rights." As a result, the developer was given a permit to proceed with the remaining 29 units of Phase II.

Prior to the request by Western North Carolina Service Corporation for authority to proceed with the remaining 29 units of the Phase II development, the Corporation had submitted on February 7, 1990, a new plan to the Planning and Zoning Commission, requesting approval of 60 units on remaining property then owned by the Corporation. The Planning and Zoning Commission recommended denial based upon "crowding of the development on the site", a question about whether or not fire protection could be provided due to the steep grades and steep switchbacks on the proposed road and the probability that the grading required for the development might not comply with the City's "Hillside Ordinance." The City Council took no action on this project and so the decision of the Planning and Zoning Commission became final.

On May 2, 1990, the Planning and Zoning Commission considered a revised site plan submitted by the developer. That proposal called for 50 units. Again, the Commission recommended denial based upon the grading not being in compliance with the City's Hillside Ordinance and due to the number of variances which would be required for street grades, rights-of-way width, pavement width and building set-backs. At a May, 1990, meeting, the City Council remanded the group development to the Planning and Zoning Commission for further consideration, as requested by the developer. It was after that date that the developer made the request for the authority to proceed based upon the conditional use approval by the Buncombe County Board of Adjustment.

The October 14, 1996, letter from James H. Coman, Zoning Administrator, Buncombe County, is accurate in that the Board of Adjustment for Buncombe County did not grant vested rights under a new statute which was adopted by the General Assembly in 1990, with an effective date of October 1, 1991. This is a third method of a developer establishing vested rights, by requesting a public hearing before the body with approval to grant a permit for the project. At that time, however, two other methods for establishing vested rights were in effect, with one being the case law method set forth above. It was under that method that the developer was able to show that he might be successful in establishing vested rights under North Carolina case law and under that method that he was authorized to proceed.

Ms. Cogburn said that Mr. Richard Green, President of the Coalition of South Asheville Neighborhoods, raised an additional issue earlier today and she is in the process of researching that concern.

Mr. Lewis and Ms. Cogburn then answered various questions from City Council and the audience, some being, what is the normal inspection frequency for construction on steep sites; what recourse would the City have if the developer did not comply with the erosion control ordinance; how could the project been in compliance prior to the September storm if there were several complaints from residents on Gardenwood Lane; what will happen to the homes in Ballantree if a 10 or a 25 year storm occurs; if a thorough investigation occurred by City staff, why did no one contact Planning Director Jim Coman; since Asheville has a ridge law, why is that not being enforced; and, can the vested rights be rescinded.

Upon inquiry of Councilman Cloninger, City Attorney Slawter said that we can amend our ordinances to be stricter than what the State requires.

With regard to the penalty provisions for non-compliance, Councilman Hay suggested that the Council Fees and Charges Committee and/or the Council UDO Committee review the penalty provisions and see if they needed to be raised.

There was some discussion about if the 10 year design requirements were adequate.

Mr. Joseph J. Enderle, Project Engineer, responded to questions from Council about plans for additional protection. He also stated a concern about the proposed change to only excavate 5 acres at a time.

When City Attorney Slawter explained that the City does not have the right to regulate the cutting of trees on private property, Ms. Carol Hyde urged Council to try to obtain legislation that would allow the City to regulate this. Councilman Cloninger agreed that the City should once again ask our legislative delegation for that authority.

Upon inquiry of Ms. Carol Hyde, City Attorney Slawter said that there are remedies through the court system for property owners who feel they have been damaged by private developers.

Mr. Kiger spoke about his being receptive in complying with corrective actions.

Councilman Cloninger felt that Asheville does need to have stricter requirements in our UDO regarding steep slopes. He asked, and it was the consensus of Council, that the Council UDO Committee review the two changes outlined above by staff as quickly as possible for inclusion in the UDO.

BURTON STREET TRAFFIC STUDY

Burton Street No Through Truck Traffic Study

Mr. James Cheeks, Traffic Engineer, said that he has performed the necessary traffic analyses on Burton Street and is seeking authorization from City Council to prohibit truck traffic along Burton Street, beginning at a point 603 feet north of the intersection of Haywood Road and Burton Street, continuing northward for the entirety of Burton Street.

The appropriate vehicle axle classification analyses were conducted and found that Burton Street is a residential roadway in West Asheville. The vehicle axle classification study was performed per the request of residents of this area. Substantial truck traffic was detected, however, there exists alternate non-residential roadways to accommodate truck traffic.

The Public Works Department recommends the approval of this no-truck route and the posting of necessary signing to advise motorists of this prohibition.

Vice-Mayor Field asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

Trucks on Residential Streets

Mr. James Cheeks, Traffic Engineer, said that he has reviewed the City Ordinances concerning trucks on residential streets and has determined that some of the truck prohibition exceptions are redundant. We are requesting permission to remove these exceptions.

The Public Works Department receives many complaints from citizens and motorists who utilize the City and State roadway system. We utilize the City Ordinances to provide information concerning truck traffic prohibition. In order to provide the best information to our customer, we believe that the following exception to trucks being prohibited on residential streets is redundant:

> d (1) Trucks are hereby allowed to travel upon any street which abuts their point of destination.

The other exceptions listed within this section of the ordinance provide the necessary guidance for the commercial trucking community, governmental authorities, residents of the City, and enforcement personnel.

We have discussed this matter with the City's legal staff and the Asheville Police Department, which is responsible for the enforcement of this ordinance, and they are in support of this minor clarification change.

The Public Works Department, with support from the Asheville Police Department, recommends the approval of this revision in the Truck Traffic Prohibited Ordinance.

Vice-Mayor Field asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

BILTMORE DAIRY SEWER LINE

Mr. Robert Wurst, Audit/Budget Director, said that this resolution will authorize the Mayor to sign an agreement providing for an additional contribution by the City of $18,333.34 toward the sewer interceptor running along Ducker Creek.

In 1994 the City Council authorized an agreement between the City, the County and Biltmore Dairy Farms, Inc. providing for construction of a sanitary sewer interceptor running along Ducker Creek at an estimated cost of $500,000. Each party agreed to contribute one-third of the cost, not to exceed $166,666.67. The agreement provides that the City and the County will consider making an additional contribution if the total cost should exceed $500,000, but that neither the City nor the County would be requested to contribute a total of more than $185,000.

The total project cost was $718,404.53, and Biltmore Dairy Farms, Inc. has requested the additional contribution from the City and the County. This resolution will authorize the Mayor to sign an agreement providing for that additional contribution.

Staff recommends approval of the resolution thereby authorizing additional funds for this project up to the maximum approved contribution.

Staff also recommends adoption of the budget amendment for final payment of the Ducker Creek Sewer Project in the amount of $18,335.

Ms. Margaret Shook, Crowfields' resident, felt that she was being taxed twice for this project and objected to Council action on this.

Vice-Mayor Field asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

PARKS AND RECREATION LONG-RANGE PLAN AND ADOPTION OF RECREATION TODAY AND TOMORROW

Mr. Irby Brinson, Director of Parks & Recreation, said that Parks and Recreation Department requests City Council adoption of Recreation Today and Tomorrow and the Long-Range Plan as the comprehensive planning documents for this department.

In 1989, the Parks and Recreation Department completed Recreation Today and Tomorrow as the comprehensive plan for recreation services for the citizens of Asheville. This document is updated annually in an effort to remain current with community trends. In addition, in January of 1996, the Parks and Recreation Department completed a Long-Range Plan for 1996 through 2010 in order to address departmental issues, facility

improvements, and capital development. In order to meet requirements through various grants and foundations to secure outside funding, these planning documents need to be officially adopted by the agency's governing body. This adoption of both plans is not an approval of the total recommendations from the findings of the study and is only approval of the basic concepts which are addressed. Both of these documents have been approved by the Parks and Recreation Advisory Board.

The Parks and Recreation Department requests the City Council adoption of Recreation Today and Tomorrow and the Long-Range Plan as the comprehensive planning documents for the department.

Vice-Mayor Field asked that the record show that City Council has received this information and instructs the City Manager to place the item on the next formal City Council agenda.

BOARDS AND COMMISSIONS:

It was the consensus of Council to instruct the City Clerk to arrange interviews for vacancies on the following boards and commissions: (1) Alcoholic Beverage Control Board; and (2) Board of Adjustment.

Upon recommendation of the Council Boards and Commissions Committee, it was the consensus of Council to (1) reappoint Kathryn Liss and Cynthia Janes to the Asheville-Buncombe Community Relations Council; (2) reappoint Victor Trantham, Jim Samsel and Garry Moffitt to the Asheville Downtown Commission; (3) reappoint Jerry VeHaun to the Firemen's Relief Fund; (4) reappoint Mike Holcombe to the Metropolitan Sewerage District Board; and (5) reappoint Grace Dorn and Tom Tomlin to the Asheville Transit Authority.

Even though the entire Council felt that the policy in place for quarterly appointments was good, Councilmen Cloninger, Skalski and Worley felt that City Council should be allowed two more weeks within which to submit names to be considered for the Board of Adjustment seats.

ADJOURNMENT:

Vice-Mayor Field adjourned the meeting at 5:40 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - November 12, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 96-190 - RESOLUTION OF APPRECIATION TO WILLIAM F. SLAWTER, CITY ATTORNEY

Mayor Martin read the resolution stating that Bill Slawter has been the City Attorney for 13 years and on May 14, 1996, Mr. Slawter asked that City Council accept his resignation. Mayor Martin expressed City Council's appreciation to Bill for his service to the City of Asheville and its citizens. City Manager Westbrook, Fire Chief John Rukavina and Assistant City Attorney Patsy Meldrum, on behalf of all City employees, wished Bill the best of luck in the future.

Mayor Martin presented Mr. Slawter with the resolution, a plaque, and his name plate.

Resolution No. 96-190 was adopted by acclamation.

RESOLUTION BOOK NO. 23 - PAGE 331

B. RESOLUTION NO. 96-191 - RESOLUTION RECOGNIZING CITY OF ASHEVILLE EMPLOYEE SUPPORT OF UNITED WAY OF ASHEVILLE AND BUNCOMBE COUNTY

Mr. George Pfeiffer, President and CEO of the United Way of Asheville and Buncombe County, thanked all City employees for making this year's United Way campaign such a success. He thanked Mr. Robert Griffin, for providing leadership to the team of 20-plus Loaned Executives, Ms. Karen Murphy-Herrin and Mr. Ed Vess, for leading the City of Asheville in this year's campaign and Mr. Joe Leen, for providing leadership in the "Day of Caring". The total amount pledged in 1995 was $48,023.69. The City of Asheville's goal this year was $60,000 and the amounted pledged to date is $71,603.78!

Mayor Martin, on behalf of City Council, and City Manager Westbrook thanked these employees as well as all of the City of Asheville employees for their contributions to the community.

Resolution No. 96-191 was adopted by acclamation.

RESOLUTION BOOK NO. 23 - PAGE 332

C. PROCLAMATION PROCLAIMING NOVEMBER 19, 1996, AS "NATIONAL PHILANTHROPY DAY" IN THE CITY OF ASHEVILLE

Mayor Martin proclaimed November 19, 1996, as "National Philanthropy Day" in the City of Asheville and presented the

proclamation to Mort Jonas who briefed the Council on some activities that would be taking place during that day.

D. PROCLAMATION PROCLAIMING NOVEMBER 24-30, 1996, AS "NATIONAL FAMILY WEEK" IN THE CITY OF ASHEVILLE

Mayor Martin proclaimed the week of November 24-30, 1996, as "National Family Week" in the City of Asheville.

II. CONSENT:

Councilman Skalski asked that Item C. be removed from the Consent Agenda to be discussed separately.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 22, 1996; THE COMMUNITY MEETING HELD ON OCTOBER 29, 1996; AND THE WORKSESSION HELD ON NOVEMBER 5, 1996

B. RESOLUTION NO. 96-192 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 3B TO GERTRUDE D. JONES, DRITTA ENTERPRISES AND HILLIARD AVENUE PARTNERSHIPS

Summary: Disposal Parcel 3B is a fragment lot located on the west side of South Grove Street comprising 4,665 square feet. The lot is irregular in shape and mostly flat about three feet above street level. The bid from Gertrude D. Jones includes the proposal to combine the property with property currently owned by Ms. Jones at 99 South Grove Street. No construction is planned.

The bid from Ms. Jones, in the amount of $2,200 is not less than the established minimum price of $1,800. The upset bid process was followed and an upset bid was received by Dritta Enterprises in the amount of $2,450. The upset bid process was again followed and an upset bid was received by Ms. Gertrude Jones in the amount of $2,800. The upset bid process was again followed and an upset bid was received by Dritta Enterprises in the amount of $4,000. The upset bid process was again followed and an upset bid was received by Ms. Gertrude Jones in the amount of $4,300. The upset bid process was again followed and an upset bid was received by Dritta Enterprises in the amount of $4,600. The upset bid process was again followed and an upset bid was received by Dritta Enterprises, Ms. Gertrude Jones and Hilliard Avenue Partnerships in the amount of $4,880. The upset bid process was again followed and there was not another upset bid received.

RESOLUTION BOOK NO. 23 - PAGE 333

C. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO AN AGREEMENT BY AND AMONG THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE AND BILTMORE DAIRY FARMS INC.

This item was removed from the Consent Agenda to be discussed individually.

D. RESOLUTION NO. 96-193 - RESOLUTION AMENDING THE FEES AND CHARGES MANUAL TO INCLUDE A MONTHLY RECYCLING FEE

Summary: In order to implement the curbside residential recycling program, starting January 6, 1997, the Fees and Charges Manual must be amended to allow for the charging of recycling services.

On June 25, 1996, the City Council unanimously approved the awarding of the residential curbside recycling contract to Curbside

Management, Inc. The cost for the curbside program is $1.51 per household. Fifty percent of the cost of the collection program are to be charged to the citizens of Asheville as part of the utility bill statement. At present, the rate set forth will be $0.75 per month. The rate per household per month may be adjusted annually in the amount not to exceed the Consumer Price Index published by the Bureau of Labor Statistics.

The Fees and Charges Manual must be amended in accordance with the Recycling Ordinance which requires the delivery of residential recycling services. This amendment will allow for the billing of services in addition to monthly water and wastewater charges.

The Public Works Department recommends the adoption of the Resolution amending the Fees and Charges Manual of the City of Asheville to establish fees related to residential recycling services.

RESOLUTION BOOK NO. 23 - PAGE 334

E. MOTION ADOPTING THE PARKS AND RECREATION DEPARTMENT'S LONG RANGE PLAN AND RECREATION TODAY AND TOMORROW

F. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 26, 1996, TO CONSIDER THE REZONING OF 223 EAST OAK VIEW ROAD FROM LI LIGHT INDUSTRIAL TO R-3 MEDIUM DENSITY RESIDENTIAL

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

Ordinances:

Councilman Skalski asked that Item A. be removed from the Consent Agenda to be discussed separately.

A. BUDGET AMENDMENT RELATIVE TO THE DUCKER CREEK SEWER PROJECT

This item was removed from the Consent Agenda to be discussed individually.

B. ORDINANCE NO. 2326 - BUDGET AMENDMENT RELATIVE TO THE FIRST FLOOR SECURITY PARTITIONS

Summary: This budget amendment, in the amount of $28,036, is for the purchase of security partitions for the customer service area on the First Floor of the City Hall Building.

ORDINANCE BOOK NO. 16 - PAGE 109

C. ORDINANCE NO. 2327 - BUDGET AMENDMENT RELATIVE TO APPROPRIATING TENTH YEAR FAIR HOUSING ASSISTANCE PROGRAM GRANT FUNDS

Summary: This budget amendment, in the amount of $16,000, is to appropriate the 10th Year Fair Housing Assistance Program grant funds.

ORDINANCE BOOK NO. 16 - PAGE 111

D. **ORDINANCE NO. 2328 - ORDINANCE AMENDING CHAPTER 15 (SOLID WASTE MANAGEMENT) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE**

Summary: In order to authorize the Public Works Department to implement a residential curbside recycling service, Chapter 15 (Solid Waste Management) of the Code of Ordinances of the City of Asheville must be amended.

Due to the waste reduction goals set by the State of North Carolina and great public interest in preserving the environment by reducing the amount of municipal solid waste sent to landfills, the City of Asheville should expand recycling services. The amendment to Chapter 15 of the Code of Ordinances sets forth the administration and regulations pertaining to the expansion of residential recycling services offered by the City of Asheville.

Under the Ordinance, the implementation of recycling services will fall under the jurisdiction of the Office of the Waste Management Coordinator. The Office will be responsible for coordinating a curbside residential recycling program for household customers and providing assistance to businesses, commercial establishments, and multi-family dwellings in setting-up recycling programs.

In order to amend the Fees and Charges Manual of the City of Asheville to set fees for residential recycling services, Chapter 15 of the Code of Ordinances of the City of Asheville must be amended to authorize the City to provide curbside residential recycling services. On June 25th, City Council awarded a contract for curbside recycling services for approximately 24,000 households to Curbside Management, Inc. In conjunction with this action, the Code of Ordinances must be amended.

The Public Works Department recommends the adoption of the Ordinance amending Chapter 15 (Solid Waste Management) of the Code of Ordinances of the City of Asheville.

ORDINANCE BOOK NO. 16 - PAGE 113

E. **ORDINANCE NO. 2329 - ORDINANCE PROHIBITING TRUCK TRAFFIC ON A PORTION OF BURTON STREET**

Summary: The Traffic Engineer has performed the necessary traffic analyses on Burton Street and is seeking authorization from City Council to prohibit truck traffic along Burton Street, beginning at a point 603 feet north of the intersection of Haywood Road and Burton Street, continuing northward for the entirety of Burton Street.

The appropriate vehicle axle classification analyses were conducted and found that Burton Street is a residential roadway in West Asheville. The vehicle axle classification study was performed per the request of residents of this area. Substantial truck traffic was detected, however, there exists alternate non-residential roadways to accommodate truck traffic.

The Public Works Department recommends the approval of this no-truck route and the posting of necessary signing to advise motorists of this prohibition.

ORDINANCE BOOK NO. 16 - PAGE 119

F. ORDINANCE NO. 2330 - ORDINANCE ALLOWING TRUCKS TO TRAVEL UPON ANY STREET WHICH ABUTS THEIR POINT OF DESTINATION

Summary: The Traffic Engineer has reviewed the City Ordinances concerning trucks on residential streets and has determined that some of the truck prohibition exceptions are redundant. We are requesting permission to remove these exceptions.

The Public Works Department receives many complaints from citizens and motorists who utilize the City and State roadway system. We utilize the City Ordinances to provide information concerning truck traffic prohibition. In order to provide the best information to our customer, we believe that the following exception to trucks being prohibited on residential streets is redundant:

d (1) Trucks are hereby allowed to travel upon any street which abuts their point of destination.

The other exceptions listed within this section of the ordinance provide the necessary guidance for the commercial trucking community, governmental authorities, residents of the City, and enforcement personnel.

We have discussed this matter with the City's legal staff and the Asheville Police Department, which is responsible for the enforcement of this ordinance, and they are in support of this minor clarification change.

The Public Works Department, with support from the Asheville Police Department, recommends the approval of this revision in the Truck Traffic Prohibited Ordinance.

ORDINANCE BOOK NO. 16 - PAGE 120

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and only reading.

ITEMS PULLED OFF THE CONSENT AGENDA TO BE DISCUSSED INDIVIDUALLY

RESOLUTION NO. 96-194 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO AN AGREEMENT BY AND AMONG THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE AND BILTMORE DAIRY FARMS INC.

Summary: This resolution will authorize the Mayor to sign an agreement providing for an additional contribution by the City of $18,333.34 toward the sewer interceptor running along Ducker Creek.

In 1994 the City Council authorized an agreement between the City, the County and Biltmore Dairy Farms, Inc. providing for construction of a sanitary sewer interceptor running along Ducker Creek at an estimated cost of $500,000. Each party agreed to contribute one-third of the cost, not to exceed $166,666.67. The agreement provides that the City and the County will consider making an additional contribution if the total cost should exceed $500,000, but that neither the City nor the County would be requested to contribute a total of more than $185,000.

The total project cost was $718,404.53, and Biltmore Dairy Farms, Inc. has requested the additional contribution from the City and the County. This resolution will authorize the Mayor to sign an agreement providing for that additional contribution.

Staff recommends approval of the resolution thereby authorizing additional funds for this project up to the maximum approved contribution.

Councilman Skalski moved to deny an additional contribution by the City for the sewer interceptor running along Ducker Creek. He said that he didn't think the City has the money to be involved in development projects and he wants to be in concurrence with the MSD policy of no sewer line extensions at this time. Councilman Skalski's motion died for a lack of a second.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 96-194. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Skalski voting "no".

Councilman Hay said that it was his understanding that this is an agreement that the City made some time ago and we are only honoring that agreement.

Mayor Martin said that this has been a good investment for the City.

Councilman Worley said that when the City funds economic development, they do so based on the formula which assures the City a return of their investment within a five year period. The ad valorem taxes that are generated by this investment is paid back to the City over a five year period and it enhances the entire economic development of the community.

RESOLUTION BOOK NO. 23 - PAGE 335

A. ORDINANCE NO. 2331 - BUDGET AMENDMENT RELATIVE TO THE DUCKER CREEK SEWER PROJECT

Summary: This budget amendment, in the amount of $18,335, is for final payment of the Ducker Creek Sewer Project.

Councilman Skalski moved to deny the budget amendment to appropriate $18,335, for the Ducker Creek Sewer Project. He said that the City is not, and should not be, in the development business. He also said that the City had a $300,000,000 infrastructure need that needs to be fulfilled. He said that he is a fix-it-first Councilmember and if anyone thinks that adding all these pieces of property in the City territory has been chipping away at our deficit, why is it that we now still have a $300,000,000 deficit with some of the highest sewer and water rates in the state. Councilman Skalski's motion died for a lack of a second.

Mayor Martin said that the City is in the infrastructure business and sometimes it's necessary to extend infrastructure to help promote businesses and residences.

Vice-Mayor Field pointed out that the developer paid 1/3 of the cost of the sewer interceptor, the County paid 1/3 and the City is paying 1/3.

Councilman Worley felt that the City is in the business of economic development but not direct economic development. If we don't promote growth in our economy then we wither and die. We have chosen to do this in a number of ways. We have just recently established the City Business and Development Commission and if that's not promoting economic development, he doesn't know what is. He said our policies are geared toward helping and assisting in economic development and we do have a tremendous return on this particular investment.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2331. This motion was seconded by Councilman Cloninger.

Councilman Hay said that the City agreed to this in 1994 and he felt it would be irresponsible to say that the City wants to break their contract with the County and Biltmore Dairy Farms to make a point. This may or may not have been a good idea but a deal is a deal and the City should maintain its agreements.

Councilman Skalski pointed out that the City residents are paying double for this since they are county taxpayers too.

On a roll call vote of 6-1 vote, with Councilman Skalski voting "no", Ordinance No. 2331 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 121

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO ANNEXATION OF SECTION VIII OF BRAESIDE (BURNSIDE PHASE 1 AT BILTMORE PARK)

ORDINANCE NO. 2332 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, N.C., BY ANNEXING A CONTIGUOUS AREA LOCATED ON PINCHOT DRIVE AND KNOWN AS SECTION VIII OF BILTMORE PARK

Mayor Martin opened the public hearing at 5:34 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson said that Biltmore Farms Inc. has submitted an annexation petition for a 10.5 acre area identified as Biltmore Park, Section VIII (Burnside Phase 1). This is the 8th annexation petitioned by Biltmore Farms Inc. for property located west of Overlook Road. This area is contiguous to the Asheville corporate limits, specifically to Biltmore Park, Section VI, which was annexed effective December 27, 1995. The effective date of annexation will be May 12, 1997. Biltmore Farms plans to construct streets to NC Dept. of Transportation ("NC DOT") standards and to construct water and sewer lines to Water Authority and MSD standards. Conservatively estimating a tax value of $250,000 per lot when developed, this annexation would increase the tax base by $3,250,000 with a resulting annual revenue to the City of $18,525 at our current tax rate.

When Mr. Richard Green, 203 Blake Mountain Circle, asked why this development was allowed to build their streets to less stringent NC DOT standards opposed to City standards, Mr. Benson responded that this subdivision was platted prior to being annexed by the City.

Upon inquiry of Mr. Johnny Lloyd, City Manager Westbrook said that the City has existing personnel to service this area.

Mayor Martin closed the public hearing at 5:39 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2332. This motion was seconded by Councilman Worley.

On a roll call vote of 6-1 (with Councilman Skalski voting "no"), Ordinance No. 2332 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 123

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. ORDINANCE NO. 2333 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DEPARTMENT TO DEMOLISH THE DWELLING KNOWN AS 70 SAND HILL ROAD

Mr. Terry Summey, Director of Building Safety, said that 70 Sand Hill Road is a dilapidated structure. The owner Fred Thomas Luther and spouse have signed a "Consent to demolish" and a "Waiver of Notice" for its demolition. 70 Sand Hill Road was inspected by Building Safety Department staff on April 7, 1994. Inspector David J. Souther found the following conditions, which have been documented by still photographs and videotape:

- The dwelling has been severely damaged by water to the footings which make it structurally unsound.
- The dwelling is abandoned.
- The dwelling is unfit for human habitation, and is a threat to the surrounding neighbors.

Inspector David J. Souther sent a correction order to the property taxpayer of record on August 24, 1994. There was no response. A formal hearing was then scheduled and held on March 20, 1996. The owner and the City Inspector were in attendance. Based on the evidence presented at that hearing the Building Safety Department hearing officer worked with the owner to come up with a solution. The owner stated he was financially unable to demolish the structure but was in agreement that it was in fact in need of demolition. Mr. Luther and his spouse have signed a "Waiver of Notice" and "Consent to Demolish" this past Monday, October 28, 1996.

Building Safety Department requests the City Council to direct by ordinance the demolition of 70 Sand Hill Road. N.C.G.S. 160A-443(6) authorizes placement of a lien on the property to recover the cost of a demolition so ordered by City Council. The City will be responsible for

the initial cost of the demolition until said lien is paid. Funds for this purpose were included in the FY 1997 Operating Budget.

The Building Safety Director recommends adoption of an ordinance directing the demolition of 70 Sand Hill Road.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Skalski moved for the adoption of Ordinance No. 2333. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2333 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 125

B. REPORT OF RECOMMENDATION OF THE PLANNING & ZONING COMMISSION REGARDING ZONING STUDY OF THE OI PORTIONS OF PIN NOS. 9655.09-15-2013 AND 9655.09-15-0415 LOCATED WEST OF HENDERSONVILLE ROAD

Mr. Gerald Green, Senior Planner, said that this is a report of the recommendation from the Planning & Zoning Commission ("Commission") regarding a zoning study of approximately 10 acres currently zoned OI (office-institutional) west of Hendersonville Road.

City Council initiated this zoning study. The original request was to study approximately 155 acres west of Hendersonville road, east of Overlook Road, and north of Springside Road. City Council studied the request and directed staff to pursue the zoning study of only the OI portion of this area. This study was for the portions of two tax parcels, PIN 9655-09-15-0415 and 9655-09-15-2013, which are currently zoned OI.

The City Council referred this zoning study to the Commission and the Commission reviewed this request at their regular November meeting.

At that meeting, the City Planning and Development staff recommended that the OI portions of these two parcels be rezoned to R-2 (low density residential) for the following reasons:

1. The 2010 plan indicates low density residential for this area.

2. Staff considered current development, topography, and access of this area and feels that low to medium residential development would be most compatible for this area.

3. This recommendation is consistent with past staff recommendations regarding the zoning in this area.

4. MSD has indicated that the current sewer lines will only support low to medium density residential development.

5. The original zoning of this area was R-2 (low density residential).

The Commission considered that recommendation, conducted a public hearing and voted 4 to 3 to recommend that only a portion (approximately one acre) of the lot described on the Buncombe County tax maps and records as 9655.09-15-2013 which is currently zoned OI be rezoned to R-2. The three members who voted against this recommendation preferred to

report that all of the portions of both lots which are currently zoned OI be rezoned to R-2.

The Planning & Development Department recommends that the City Council schedule a public hearing on this matter. As the Commission recommended that only a part of the studied area be rezoned, it is recommended that the City Council consider whether or not to direct the Mayor to send a letter to the City Clerk to request that the public hearing be scheduled to include consideration of the zoning study of the entire portions of the two lots which are currently zoned OI.

City Attorney Slawter answered questions from Council as they related to the appeal procedure and options available to Council.

Vice-Mayor Field said that this has been difficult for everyone involved and she felt that it might be better to not delay the issue any longer than necessary. If Council waits until after December to hold the public hearing, then perhaps they should wait until the UDO is finished, since the UDO schedule is very ambitious. City Council made a commitment to do this as quickly as possible and the Council is very clear as to what the community wants.

Ms. Laurel Eide said that since April she has been involved with this issue and about a month ago City Council recommended that all the affected parties meet and see if some solution could found to accommodate both the neighbors and the property owners of the OI portions. Because of the large number of neighbors involved, Ms. Eide urged Council to give her the time she needs to accomplish this task. She suggested a date of January be set.

Councilman Cloninger said that he was encouraged that the neighborhood is agreeable to meet with the property owners involved and he felt Council should do everything they can to encourage and facilitate that. He proposed that City Council appeal the Planning & Zoning Commission's decision and confirmed that if a date is set for the public hearing at this time, it is with the understanding that it can be postponed until negotiations are settled.

Vice-Mayor Field wanted to point out that as long as this issue remains unresolved, Mr. Morosani can move forward and sell his property.

Councilman Hay felt that if the affected parties would have begun their meetings earlier there would be a lot less stress and unhappiness in this matter. He felt that there are compromises that people can meet. He hoped that people in the future will start talking early on instead of at the end of the process. The people in South Asheville made it clear to City Council that they wanted to move ahead with this quickly and City Council said that they would. He said by putting this off for two months, Council is not keeping the promise they made to the South Asheville residents. He said that he would be counting on Ms. Eide to be representing the wishes of those people to postpone this for two more months but noted that City Council is ready to move ahead. However, he would be willing to postpone this at the request of Ms. Eide in the interest of compromise.

Mr. Daniel Breen felt that City Council should be fair to the developers too and act on this issue as quickly as possible.

Councilman Cloninger moved to authorize the Mayor to file written notice with the City Clerk's Office appealing the decision of the Planning & Zoning Commission and scheduling a public hearing before the City Council regarding the zoning of the OI portions of PIN Nos.

9655.09-15-2013 and 9655.09-15-0415 located west of Hendersonville Road on January 14, 1997 (with the understanding that if negotiations are still taking place, additional time will be given for those negotiations). This motion was seconded by Councilman Skalski and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on November 6, 1996:

Care Free Windows Expansion located at 150 Westside Drive

Mr. Carl Ownbey, Urban Planner, said that this is the review of the revised site plan for the Care Free Windows project located in the Westside Industrial Park off of Emma Road.

On December 4, 1995, the Planning Department received the site plan for the expansion of the Care Free Windows light industrial facility located at 150 Westside Drive in the Westside Industrial Park. The site plan was presented to the Technical Review Committee on December 11, 1995, for their comments.

On January 3, 1996, the Commission reviewed the site plan and after public comment voted unanimously to approve the project. On January 9, 1996, City Council reviewed and approved the project. During construction of the additional building and parking area, one adjoining property owner continually voiced his concern over the need for more buffering, the cutting of all the trees, the outside lighting being directed toward his home and the dust from the grading. He requested that some additional trees be planted and added inspections of the site be conducted.

During one of the inspections, staff noticed that a large number of trees had been cut to provide for a stormwater retention area. Since this project was within the ETJ at the beginning, the County had jurisdiction over the stormwater requirements. Staff then requested that a revised site plan be provided for the City's review. During this review staff determined that significant changes had been made to the approved site plan and therefore required the developer to submit revised site plans for review and approval by the City.

On November 6, 1996, the Commission voted unanimously to approve the revised site plan noting that the area surrounding the stormwater retention met the City's buffering requirements and then required the property owner to provide the required buffering outlined on the original site plan.

The Planning staff and the Commission recommend approval of the revised site plan for Care Free Windows industrial facility located at 150 Westside Drive.

Upon inquiry of Councilman Cloninger about why changes were made, Mr. Ownbey said that there were some minor changes on the footprint layout and some on the parking. Planning staff did review internally

those changes and found them to be in compliance. However, the major change was the retention area. The original plan called for the area to remain wooded and because of the County's stormwater requirements, the County required the retention area to be built and the developer did not bring it back to the City for review. He said on April 23, 1996, the City annexed this property and the County approved the retention area on April 24, 1996.

Upon inquiry of Vice-Mayor Field, Mr. Ownbey said that not only does the retention pond meet the County's stormwater requirements, but it meets the City's requirements as well.

When Councilman Sellers asked if the buffering above Mr. Watts' home have been complied with, Mr. Ownbey responded that they have not been complied with at this point. Mr. Ownbey said that the lighting, however, has been corrected.

Council accepted the report of the Planning and Zoning Commission with the above condition, thereby approving the project by taking no action.

University Place to be located on Barnard Avenue

Mr. Gerald Green, Senior Planner, said that the proposal is to construct twenty-four four bedroom apartments on Barnard Avenue.

The property totals approximately 2.75 acres and is zoned R-3 medium density residential. Surrounding properties are also zoned R-3. The apartments would be housed in two separate buildings on the site. Additionally, a 400 square foot freestanding laundry facility is proposed.

The Planning and Development staff recommended approval of the group development with the following conditions: (1) Receipt of letters confirming water and sewer availability; (2) That a parking agreement be worked out with an adjoining property owner; and (3) That the group development requirement related to recreational areas be met.

At their November 6, 1996, meeting the Commission voted unanimously to recommend denial of the group development. The recommendation was based primarily on safety issues, such as pedestrian and vehicular, and fire protection. Additionally, the Commission was not satisfied that one of the group development requirements (that they provide at least 200 square feet of recreational area per unit) had been met by the plans.

On November 12, 1996, a letter was received from Mr. James O. Efland, P.E., to Mike Matteson which reads: "Due to the short time interval and long holiday weekend we are unable to adequately prepare for forwarding of the University Place Apartments proposal to City Council. We therefore request that this project be withdrawn at this time pending further investigation as to our options and so as to allow us to obtain official findings of the Planning and Zoning Commission. These official findings have been requested but remain unavailable to us."

Upon inquiry by City Council, City Attorney Slawter said that Section 30-6-2 (f) of the Code of Ordinances reads that "the planning director shall promptly report the final recommendation of the planning and zoning commission to the Asheville City Council. The action of the planning and zoning commission shall then be final unless the city council determines at the time the report is made to schedule a public

hearing on the matter at one of its next regularly scheduled meetings, as soon as is practicably possible, unless the parties consent to a specific date for the public hearing."

City Attorney Slawter further read that in subsection (g) it reads "no plan shall be reconsidered within one year unless and until the planning director determines the reasons for denial have been adequately addressed after consideration of additional information provided with a revised application and group development plan."

Councilman Hay moved to not set a public hearing on this matter, thereby accepting the report of the Planning and Zoning Commission for denial of the group development. This motion was seconded by Councilman Worley and carried unanimously.

Mr. David Gould said that when he was first made aware of this project his neighborhood formed a neighborhood association. The Association is unanimous against this project. He said that the entire area is highly dense. In the past, traffic concerns have tried to be addressed. He said that the roads and infrastructure in this area cannot handle anymore apartments. He suggested the entire area be studied for rezoning. He was concerned that will be an attempt to circumvent the plan and build these apartments within a year and the area just cannot handle it. The area is over-built. Another concern is the need for Council to again attempt to get legislative authority to restrict the kind of clearing and site preparation that can be done prior to a permit being approved. He then passed around pictures of the 2-1/2 acre lot that lost a couple of hundred trees and now looks like a dust bowl.

Chatham Garden Apartments located on Chatham Road

Mr. Gerald Green, Senior Planner, said that the proposal is to construct a twelve unit apartment building on Chatham Road.

The property totals approximately 1.9 acres and is zoned R-3 medium density residential. Surrounding properties are also zoned R-3. The twelve apartments would consist of a total of twenty-three bedrooms.

The Planning and Development staff recommended approval of the group development with the following conditions: (1) Must receive approval from the Fire Department; (2) Receipt of a letter confirming water availability; (3) That a revised landscape buffering plan be approved by staff; and (4) That the group development requirement related to recreational areas be met.

At their November 6, 1996 meeting the Commission voted (4-3) to recommend denial of the group development. The recommendation was based primarily on safety issues such as fire protection and pedestrian/ vehicular safety. Additionally, the commission was not satisfied that one of the group development requirements (that they provide at least 200 square feet of recreational area per unit) had been met by the plans.

On November 12, 1996, a letter was received from Mr. James O. Efland, P.E., to Mike Matteson which reads: "We request that this project not be forwarded to City Council for review at this time. We plan to review the entire scope of the project after we receive the findings of the Commission".

Ms. Leni Sitnick asked if there any place in the UDO or any other City ordinance that can prevent deforestation prior to approval by

either Planning staff, the Planning & Zoning Commission or City Council. She was concerned that before approval by the appropriate parties is given, the developer is allowed to cut a lot of trees down and then finds that he cannot meet the conditions required for approval. The land is already destroyed.

Councilman Cloninger and Vice-Mayor Field said that City Council will again be contacting their legislative delegation to ask for enabling legislation giving the City authority to regulate the cutting of trees on private property.

Councilman Hay moved to not set a public hearing on this matter, thereby accepting the report of the Planning and Zoning Commission for denial of the group development. This motion was seconded by Councilman Sellers and carried unanimously.

B. ORDINANCE NO. 2334 - ORDINANCE AMENDING ORDINANCE NO. 2309 WHICH ESTABLISHED THE CITY BUSINESS AND DEVELOPMENT COMMISSION

Vice-Mayor Field said that the Council Boards & Commissions Committee have met and they are considering the recommendation from Mr. H.K. Edgerton about adding some members to the City Business & Development Commission. She said that the Committee is still researching this recommendation.

The Commission also reviewed and is recommending the ordinance be amended to allow City Council to select, among the members of the City Business and Development Commission, a Chairman who shall serve at the pleasure of City Council. The City Business and Development Commission will still select annually, from among it's members, a vice-chairman and a secretary. Since City Council does not actually make the appointments, this will give the Council a little more control on the direction it wishes the Commission to take.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Field moved for the adoption of Ordinance No. 2334. This motion was seconded by Councilman Sellers.

Upon inquiry of Councilman Skalski about not letting the Commission appoint their own Chairman, Councilman Worley said that since this particular Commission is made up of representatives not appointed directly by City Council, but appointed by various organizations, City Council appointing the Chairman will give the Council a little more control in the direction the Council wants that Commission to go.

On a roll call vote of 7-0, Ordinance No. 2334 passed on its first and final reading.

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C. COMMENTS FROM MR. DANIEL BREEN ON DRUG PREVENTION

Mr. Daniel Breen urged City Council to combat the serious drug problems in Asheville.

Mayor Martin and Vice-Mayor Field spoke about the efforts taking place on the prevention of drug use and commended the Police Department for the enforcement efforts.

D. COMMENTS FROM MS. JANE MATHEWS

Ms. Jane Mathews suggested that Council address, perhaps in the Unified Development Ordinance, dormitories.

Vice-Mayor Field said that she has talked some people at the University and they are looking at the privatization of dormitories. She can see that this will be an issue in the future that needs to be addressed. She suggested the Planning Department look at dormitories in terms of residential and in what zones. She also noted that at least 50-60% of the housing that is needed in this community needs to be rental housing - whether that is single family residential or apartments.

E. CLAIMS

The following claims were received by the City of Asheville during the week of October 18-31, 1996: Lillie May Waters (Civic Center) and Becky Gudger (Fire).

These claims have been referred to Asheville Claims Corporation for investigation.

F. LAWSUIT

The City was served with an Appeal of Street Closings on October 25, 1996, from Piedmont Paper Company, regarding the closing of portions of Elliott Street and Garfield Street.

This lawsuit will be handled in-house.

CLOSED SESSION

At 6:55 p.m., Councilman Sellers moved to go into closed session: (1) as authorized by G.S. 143-318.11 (a) (3) to consult with the City Attorney in order to preserve the attorney-client privilege; and (2) as authorized by G.S. 143-318.11 (a) (5) to instruct City staff regarding the position to be taken by the City concerning the purchase of real property at the Shiloh Community Center. This motion was seconded by Councilman Worley and carried unanimously.

At 7:35 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:35 p.m.

Magdalen Bowerson
CITY CLERK

MAYOR

Tuesday - November 19, 1996 - 4:30 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Budget Amendment for Maintenance of 35 Additional Traffic Signals

Summary: The consideration of entering into an agreement with NC Department of Transportation ("NCDOT") whereby the City will accept maintenance responsibilities for 35 additional traffic signals with reimbursement from NCDOT.

The City of Asheville Traffic Engineering Division has been working with the NCDOT for many years on the maintenance of Traffic Signals and Control Devices within the City of Asheville. By controlling the maintenance activities associated with these devices, we are able to be responsive and sensitive to the needs and requests of citizens and motorists who utilize the roadway system within the City. The Traffic Engineering Division has identified thirty-five (35) additional locations that are within the City that we have agreed to maintain. The locations are listed below:

1. Leicester Highway (NC 63) and Evelake Drive
2. Hendersonville Road (US 25) and Rock Hill Road (SR 3081)
3. Hendersonville Road (US 25) and Atkins Street
4. Hendersonville Road (US 25) and Mills Gap Road (SR 3116)
5. Hendersonville Road (US 25) and Biltmore Dairy Bar
6. Patton Avenue (US 19-23) and Sand Hill Road (NC 112)
7. Patton Avenue (US 19-23) and Asbury Road (SR 1234)
8. Hendersonville Road (US 25) and Long Shoals Road (NC 146)
9. Hendersonville Road (US 25) and K-Mart Plaza/BI-LO
10. Smoky Park Highway (US 19-23) and Acton Circle (SR 1245)
11. Hendersonville Road (US 25) and Royal Pines/Heywood Road (SR 3551)
12. Hendersonville Road (US 25) and Busbee Road
13. Long Shoals Road (NC 146) and Overlook Road (SR 3503)
14. Smoky Park Highway (US 19-23) and I-40 EB Off-Ramp
15. Smoky Park Highway (US 19-23) and I-40 WB Off-Ramp
16. Smoky Park Highway (US 19-23) and Old Haywood Road (SR 1404)
17. Hendersonville Road (US 25) and Turtle Creek Drive
18. Hendersonville Road (US 25) and Deerfield/Wal-Mart
19. Hendersonville Road (US 25) and Biltmore Parkway Centre/Carolina Day School
20. Sand Hill Road (NC 112) and Enka Lake Road (SR 3446)
21. Sweeten Creek Road (US 25 A) and Rathfarnham Road (SR 3185)
22. Hendersonville Road (US 25) and Overlook Road (SR 3503)
23. Hendersonville Road (US 25) and West Chapel Road
24. Brevard Road (NC 191) and Pond Road (SR 3431)
25. Hendersonville Road (US 25) and Vanderbilt Park/Sheriff's Department
26. Airport Road (NC 280) and Fanning Bridge (SR 3539)
27. Patton Avenue (US 19-23-74) and Bear Creek Road
28. Patton Avenue (US 19-23) and West Asheville Plaza
29. Smoky Park Highway (US 19-23-74) and Old Haywood Road
30. Sweeten Creek Road (US 25 A) and Wesley Drive/Givens Estates
    Hendersonville Road (US 25) and Gerber Road

31.Meadow Road (SR 3556) and Victoria Road
32.Hendersonville Road (US 25) and Hollywood Cinemas
33.Patton Avenue (I-240 Ramp) and US 19-23 SB Ramp
34.Hendersonville Road (US 25) and Springside Road (SR 3506)

These new locations will provide an additional $19,500 in revenue for the new fiscal year.

In order to maintain these traffic control devices for the fiscal year 1996-97, a budget amendment is necessary. Thus, for the first year of this reengineering effort, we will realize a net $4,000 savings/revenue increase.

The Public Works Department and the Audit and Budget staff recommend adoption of a budget amendment to add an additional $19,500 in revenue.

Truck Traffic Prohibited

Summary: The City Traffic Engineer has performed the necessary traffic analyses associated with the following locations and is seeking authorization from City Council to prohibit truck traffic along these residential roadways:

Lula Street	Entirety
Reed Street	Entirety
Irwin Street	Entirety
Richmond Hill Drive	Entirety
Thomas Street	Entirety

The appropriate vehicle axle classification analyses were conducted along with field surveys of the roadways included herein.

1. Lula Street is a 23 foot wide residential roadway that connects US 25 (Biltmore Avenue) to Reed Street. A vehicle axle classification was performed per the request of residents of this area. Trucks and large delivery vans use this roadway as a cut-through between US 25 (Biltmore Avenue) and Sweeten Creek Road (US 25 A). Based upon the residential nature of this roadway and the fact that there exists alternate roadways to accommodate truck traffic, this roadway should be posted as "No Trucks" per City ordinance.

2. Reed Street is an 18 foot wide residential roadway that connects Sweeten Creek Road (US 25 A) to West Chapel Road separated by I-40. A vehicle axle classification was performed per the request of residents of the area. Trucks and large delivery vans use this roadway as a cut-through. Many trucks were actually lost as they utilized this roadway. Based upon the residential nature of this roadway and the fact that these vehicles need more directional information, this roadway should be posted as "No Trucks" as per the City ordinance.

3. Irwin Street is a 16 foot wide residential roadway that connects US 25 (Biltmore Avenue) to Reed Street and Dodge Street. A vehicle axle classification was performed at the request of the residents of the area. Truck traffic was detected. Directional information is needed for vehicles utilizing this roadway that become lost. This roadway should be posted "No Trucks" as per the City Ordinance.

   Richmond Hill Drive is a 22 to 26 foot wide residential roadway that connects Bingham Road with Richmond Hill Road. A vehicle axle classifications was performed at the request of the residents of this

area. Truck traffic was detected; however, there exists alternate roadways to accommodate truck traffic. Directional information is needed for vehicles utilizing this roadway that become lost. This roadway should be posted "No Trucks" as per the City Ordinance.

4. Thomas Street is a residential neighborhood roadway that connects Bingham Road with Richmond Hill Road. A vehicle axle classification was performed at the request of residents of this area. Truck traffic was detected; however, there exists alternate roadways to accommodate truck traffic. . Directional information is needed for vehicles utilizing this roadway that become lost. This roadway should be posted as "No Trucks" as per the City Ordinance.

The Public Works Department recommends the approval of these "No Truck" routes and the posting of necessary signing to advise motorists of these prohibitions.

Speed Reductions

Summary: The City Traffic Engineer has performed the necessary traffic analyses associated with the following locations as per the Manual on Uniform Traffic Control Devices and the North Carolina Supplement and is seeking authorization from the City Council to change these speed limits.

Establish 20 MPH

Lula Street (entirety)
Irwin Street (entirety)
Thomas Street (entirety)
Summit Street (entirety)
Richmond Hill Drive (entirety)

Establish 25 MPH

Reed Street (entirety)

These locations have been reviewed over the past 12 months as per the request of residents and motorists who utilize these roadways. Field surveys and speed studies were conducted and data reviewed based upon the 85th percentile speed, which is the speed at or below which 85 percent of the vehicles are moving. This speed is reviewed in relationship to the median speed and the pace speed range. The pace speed range is the range of speeds at which the largest concentration of motorists drive. These speeds were all reviewed to address the speeding problems in these areas.

Lula Street:

A speed study was conducted along Lula Street per the request of citizens. There is no posted speed limit along this roadway. The Speed Study indicates that the 85th percentile speed is 23 MPH and the pace range is 16-25 MPH. The residential nature of this roadway and it's width suggests that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendations.

Irwin Street

A speed study was conducted along Irwin Street per the request of citizens in this area. There is no posted speed limit along Irwin Street. The Speed Study indicates that the 85th percentile speed is 23 MPH and the pace range is 16-25 MPH. The residential nature of this

roadway and it's width suggests that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendation.

Thomas Street

A Speed Study was conducted along Thomas Street per the request of the citizens of this area. There is no posted speed limit on this roadway. The speed study indicates that the 85th percentile speed is 23 MPH and the pace speed range is 16-25 MPH. The residential nature of this roadway and its width suggest that the speed limit be reduced to 20 MPH. The Asheville Police Department concurs with our recommendations.

Summit Street

A Speed Study was conducted along Summit Street per the request of citizens in this area. There is no posted speed limit on this roadway. The Speed Study indicates that the 85th percentile speed is 33 MPH and the pace range is 21-30 MPH. The residential nature of this roadway, it's alignment and width suggest that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendation.

Richmond Hill Drive

A Speed Study was conducted along Richmond Hill Drive as per the request of citizens in this area. There is no posted speed limit along this roadway. There is a substantial grade change along this roadway. The speed study indicates that the 85th percentile speed limit is 33 MPH and the pace speed range is 26-35 MPH. The width of this roadway, its vertical and horizontal alignment and location suggest that the safe operating speed is 20 MPH. The Asheville Police Department concurs with our recommendation.

Reed Street

A speed study was conducted along Reed Street per the request of citizens in this area. There is no posted speed limit along Reed Street. The Speed Study indicates that the 85th percentile speed is 38 MPH and the pace range is 26-35 MPH. The residential nature of this roadway and it's width suggests that the safe operating speed limit should be 25 MPH. The Asheville Police Department concurs with our recommendation.

The Public Works Department recommends the approval of these speed limit changes.

Priority Rating System for Community Development Block Grant Applications

Summary: The City will be receiving $1,587,000 from HUD through the Community Development Block Grant program for the year beginning July 1, 1997. The funding must be used for activities that benefit low and moderate income persons or aid in the prevention or elimination of slums and blight. At least 70 percent of the funding must be used for activities that benefit low and moderate income persons. Each year during the months of February/March the City evaluates applications received from agencies that have applied to the City for CDBG funding. The deadline to submit the application to the City is January 31, 1997.

The Housing and Community Development Committee discussed the priority rating system in November 1996 and recommends the approval of the attached rating system which gives highest priority to affordable housing projects.

Community Development staff recommends adoption of the resolution.

BOSTON WAY SPECIAL ASSESSMENTS

Summary: The Public Works Department has assessed the total costs for the Boston Way enhancement project, completed in May 1995, and prepared a preliminary assessment roll.

The property owners residing on Boston Way (from its intersection with All Souls Crescent at its eastern end and ending at its intersection with All Souls Crescent at its western end) petitioned the City of Asheville to add enhancements to Contract 13E, as designed by Vaughn and Melton to construct, pave, widen, install curbs and gutters and otherwise build and improve Boston Way. Enhancements to the original project included the installation of brick sidewalks, colored concrete, and other features. During the project, enhancements were also constructed east of Hendersonville Road. Therefore, property owners on Boston Way east and west of Hendersonville Road should be assessed for fifty percent (50%) of the costs.

In May 1995, the Boston Way project was completed. In September 1996, the Public Works Department closed out Contract 13E in its entirety, accepted work completed, and determined final costs. The cost of enhancements to the Boston Way project is $126,303.91 which amount includes the costs of labor, materials, equipment, and the costs of publication of notices and resolution.

A preliminary assessment role for benefited property owners has been prepared. The amount assessed to each benefited property owner is based upon fifty percent (50%) of the enhancement costs at an equal rate per foot of frontage.

The Public Works Department staff recommends the adoption of the Resolution Finding the Boston Way Project Complete, Assessing the Total Costs and Calling for a Public Hearing Announcing the Completion of the Preliminary Assessment Roll.

KITCHEN PLACE SPECIAL ASSESSMENTS

Summary: The Public Works Department has assessed the total costs for the Kitchen Place enhancement project, completed in May 1995, and prepared a preliminary assessment roll.

The property owners residing on Kitchen Place petitioned the City of Asheville to add enhancements to Contract 13E (also known as Contract 10), as designed by Vaughn and Melton to construct, pave, widen, install curbs and gutters and otherwise build and improve Kitchen Place. Enhancements to the original project included the installation of brick sidewalks, colored concrete, and other features. The property owners agreed to be assessed for fifty percent (50%) of the costs of these enhancements.

In May 1995, the Kitchen Place project was completed. In September 1996, the Public Works Department closed out Contract 13E in its entirety, accepted work completed, and determined final costs. The cost of enhancements to the Kitchen Place project is $106,299.97 which

amount includes the costs of labor, materials, equipment, and the costs of publication of notices and resolution.

A preliminary assessment role for benefited property owners has been prepared. The amount assessed to each benefited property owner is based upon fifty percent (50%) of the enhancement costs at an equal rate per foot of frontage.

The Public Works Department staff recommends the adoption of the Resolution Finding the Kitchen Place Project Complete, Assessing the Total Costs and Calling for a Public Hearing Announcing the Completion of the Preliminary Assessment Roll.

Vice-Mayor Field asked that the record show that City Council has received this information and instructs the City Manager to place these Consent Agenda items on the next formal City Council agenda.

PRESENTATION FROM THE TREE/GREENWAY COMMISSION

Mr. Henry Mitchell, Chairman of the Asheville Tree/Greenway Commission, reviewed with City Council their goals and objectives, one of which is strengthening the current tree ordinance. He then showed a short video which showed that trees play a vital part in economic development.

Ms. Leni Sitnick, member of the Tree/Greenway Commission, urged Council to use the expertise of the Commission members every opportunity they can. She also asked Council to contact their legislative delegation to ask for enabling legislation giving the City authority to regulate the cutting of trees on private property.

WEAVER BOULEVARD AND BROADWAY GREENWAY UPDATE

Ms. Erin McLoughlin, Urban Planner, said that staff has evaluated the possibilities for developing a greenway with a pedestrian and cyclist path along Weaver Boulevard and Merrimon Avenue to Broadway along with developing a greenway along Broadway and a variety of possible means to acquire necessary landholdings essential to the implementation of the proposed greenway.

With the use of slides she showed that greenways can take many forms. She then reviewed the Weaver Boulevard Project by saying that Weaver Boulevard is a four lane city road that runs in an east-west direction from Broadway to Merrimon Avenue. It serves as the main entrance to the University of North Carolina at Asheville as well as other institutional and residential developments. Currently there are no pedestrian facilities along Weaver Boulevard.

The Public Works Department is scheduled to begin construction in two phases of a 5 foot wide concrete sidewalk and curb along Weaver Boulevard. The first phase of the project will be constructed in the spring of 1997 along the north side of Weaver Boulevard from Broadway to Barnard Street. Funds in the amount of $80,000 were appropriated for this project phase to serve pedestrian traffic. Presently, funds have not been appropriated for second phase of this project along the north side of Weaver Boulevard from Barnard Street to Merrimon Avenue. The length of Phase I is approximately 2,200 feet in length whereas Phase II is about 2,100 feet in length.

Staff has examined many planning and design possibilities for a greenway which would support pedestrians and cyclists. In order for

this path to serve various user groups, it should be a minimum of 8 feet wide with a landscape area between the trail and road for safety and comfort. A concrete curb would be constructed along the edge of the road in strategic places where the landscape area is only several feet wide, again for safety and comfort. The trail would be paved in asphalt and level with the adjacent landscape and lawn areas which border it.

Factors such as pedestrian safety, vehicular safety, traffic assessment, topography, land use, cost, and aesthetics were considered during the course of the evaluation. Staff, which consists of selected members of the Planning and Development and Parks and Recreation Departments, has met with members of the City's Public Works and Engineering Departments, representatives from UNC-A and the Botanical Gardens, and some area residents. She then reviewed a map showing the general project location and current phases for construction as follows:

Weaver Boulevard - Phase I

The width of the western portion of Weaver Boulevard's pavement varies somewhat. Along the south side of the road are steeply wooded properties which meet the edge of Weaver Boulevard abruptly. Along the north side of this right-of-way are the Botanical Gardens and the campus of UNC-A. There are substantial level open space areas in which a greenway path could easily be constructed between Weaver Boulevard and Glenn's Creek with two exceptions. The lawn area between Weaver Boulevard and the Botanical Gardens is a little narrow. This greenway area could be enlarged by reducing Weaver Boulevard's westbound lane widths to approximately 11 feet. Another restrictive area is where Glenn's Creek flows under the western entrance to the UNC-A campus. There is very little space between the edge of the road and the steep bank that drops down to the creek. Although a bridge alternative further upstream could avoid this conflict, it is staff's opinion that bank stabilization still needs to be addressed in the near future since it could undermine Weaver Boulevard. The N.C. Dept. of Transportation ("NC DOT") is willing to place pedestrian signals at the intersection of Weaver Boulevard and Broadway. In addition, staff analysis of the intersection of Weaver Boulevard and University Heights indicates a traffic and pedestrian signal is warranted at the main entrance of UNC-A.

Weaver Boulevard - Phase II

As with the western half of Weaver Boulevard, the eastern portion of pavement varies somewhat in width. Along the south side of the right-of-way are some institutional and residential uses ranging from steep to level slopes. One large tract of land on the south side of Weaver Boulevard between the Boy and Girl Scouts of America and Merrimon Avenue is extremely steep and tall. It consists of a substantial amount of rock which was exposed when Weaver Boulevard was originally constructed. Along the north side of Weaver Boulevard are open space areas of UNC-A, a residence and Glenn's Creek. There are substantial level open space areas in which a greenway path could easily be constructed between Weaver Boulevard and Glenn's Creek. However, there are major design constraints for approximately 1,000 feet on the adjacent properties. The residential lot consists of steep hillside which rise and fall from the road. The steep hillside reflects the steep rock outcroppings found on the south side of the road and meet the edge of pavement abruptly. Immediately east of this hill is Glenn's Creek. It lies approximately 10 feet from the edge of pavement and is supported by an old stone retaining wall on its south side. This narrow landscape strip is steep and consists of a number of mature trees.

Staff considered various options such as reducing lane widths, grading the rocky hillside, pedestrian decks, culverting the creek and lane removal. Although a sidewalk could be constructed along the road, in light of the aforementioned criteria of a greenway (safety, cost, etc.), staff recommends that the outside, westbound lane of Weaver Boulevard be converted to the greenway path. This would be accomplished by constructing a landscape median approximately 5 feet in width to separate vehicular and pedestrian traffic. NC DOT is willing to install pedestrian signals at the intersection of Weaver Boulevard and Merrimon Avenue.

A preliminary observation of cost developed by staff for Phase I is a minimum of $180,000. This total does not necessarily resolve the stream bank stabilization issue. A preliminary observation of cost for Phase II is $95,000. These costs reflect initial planning and design and need to be reassessed as more information about the site, scope of work, and final design are refined. These costs are based essentially on materials, and not on labor and equipment which will be provided in-house by the City of Asheville Public Works, Engineering, Planning and Development, and Parks and Recreation Departments. Reflected in the Phase I costs are consultant fees of approximately $12,000 to supplement professional service in the Parks and Recreation Department in order that certain priority projects (e.g., Pritchard Park Request for Proposals and Development, Stephens-Lee Recreation Center Landscape Design and other site specific projects to be determined) would be continued while the effort and attention of the Landscape Architect are focused on this project.

Staff recommends the planning and implementation of a greenway path along Weaver Boulevard. Staff also recommends that Phase I and Phase II be reversed, so that the eastern portion of the project would be completed first (in the spring of 1997) for the following reasons:

- The issue of safety is much more of a concern along the eastern portion of Weaver Boulevard where there is little or no space to walk.
- A greenway path from UNC-A to Merrimon Avenue would provide a much-needed pedestrian and cyclist route to the commercial and residential areas.
- The $80,000 appropriated in Fiscal Year 1996/97 is much closer to the anticipated costs of the eastern portion of the greenway. Since funds are immediately available, work could commence and the project could move forward.
- The complexities and costs of the western portion of the greenway would delay immediate greenway development.
- The construction of the western portion of the greenway would coincide with the proposed Broadway greenway and the completion of the Broadway widening project.

Staff also recommends that additional funds ($27,000) be appropriated so that the eastern portion of the project may be completed in the spring of 1997.

Upon request, Mr. James Cheeks, Traffic Engineer, explained the different levels of services ("LOS") and then briefed the Council on the Public Works Department analysis if one westbound lane was converted into the greenway path from Merrimon Avenue to King Street.

- In the eastbound lane, the level of service would remain the same.

- In the westbound lane (which would be changed from two lanes to one lane), the LOS would drop from a LOS "B" to a LOS "D".

- At the intersection of Merrimon Avenue and W.T. Weaver Boulevard, the LOS would not change.

He explained that the analysis indicated that during peak a.m. hours (8:00 a.m. - 9:00 p.m.) and the peak p.m. hours (5:00 p.m. - 6:00 p.m.), the LOS of the westbound lane would be reduced which may cause delays in this direction. However, the proposed design would only affect the portion of W.T. Weaver Boulevard at a point from the intersection with Merrimon Avenue to the intersection with King Street. After this section, the LOS on the road would remain the same - LOS "B". This reduction to three lanes would allow approximately 12-13' for the design of a greenway. Also, the reduction to three lanes would not require moving or replacing the existing traffic signal at the intersection of W.T. Weaver Boulevard and Merrimon Avenue. From preliminary conversations with the N.C. Dept. of Transportation ("NC DOT"), they probably will not have any objections with the narrowing as our analysis has shown that the LOS will remain the same at the intersection. The pavement markings costs would be reduced as all pavement markings would not have to be removed and reinstalled.

Another option would be the installation of 10-foot lanes (from Merrimon Avenue to King Street) that would gradually widen back to 12 foot lanes at the intersection with King Street. This reduction would optimize usage of the extra right-of-way on the south side of the road but would require the moving of the existing signal. Under this option, the LOS for both the eastbound and westbound lanes would remain the same. This design would provide approximately 7-8' for design of a greenway. However, Planning staff felt that the 10-foot lanes would cause a safety problem because there would be no shoulders - just an immediate sidewalk with no barrier between the pedestrians and the cars. Pavement markings with the 10-foot lanes would have to be removed and reinstalled.

Upon inquiry of Vice-Mayor Field, City Manager Westbrook said that the additional $27,000 would come from either contingency or fund balance.

Councilman Hay asked if there would be any impact on Edgewood Road traffic if there was the reduction to one lane from Merrimon Avenue to King Street. Mr. Cheeks felt that there would be an adverse impact because Council is now trying to force Edgewood Road traffic to use W.T. Weaver Boulevard, and if W. T. Weaver Boulevard is reduced to one lane in that section, traffic will probably begin to use Edgewood Road again. He did state that he has noticed a reduction in traffic on Edgewood Road.

Mr. Cheeks noted that if Council reduces the lanes to 10 feet, he would need to reduce the speed on that portion of W. T. Weaver Boulevard to 20 miles per hour. The present speed on W.T. Weaver Boulevard is 35 miles per hour, however, 85% of the people traveling on that road are traveling 43 miles per hour.

Ms. Susan Roderick suggested Council consider purchasing the land just south of Boston Pizza. She felt that property would be a nice connection into Weaver Park. She also hoped that Council would consider purchasing land along Broadway for its greenway.

Upon inquiry of Mr. H.K. Edgerton, Ms. McLoughlin said that skateboarders and bicyclists would be welcome to use the path. City staff is continuing discussions with UNC-A about security.

Ms. McLoughlin then reviewed the Broadway greenway project. She said that for many years discussion has taken place on the desire to construct a greenway along Broadway in conjunction with the Broadway widening project which is currently underway.

The proposed Broadway greenway corridor is located to the west of Broadway and runs parallel to Reed Creek. This portion of the greenway would begin at Chestnut Street and extend north to Catawba Street. This corridor is approximately 3/4 of a mile in length. She reviewed the general location of the proposed greenway.

Staff has determined that currently, much of the needed right-of-way is in private ownership (approximately 14-22 parcels). The City does, however, own some parcels on Broadway. Private property owners will need to be approached and negotiated with in order to secure the right-of-way necessary for the greenway. Many forms of negotiation are used for greenways, including but not limited to: easements, donations, fee simple and combinations of the aforementioned. Local real estate companies do not specialize in this type of work and therefore staff sought proposals from national land conservation firms that do land conservation protection. The Trust for Public Land ("TPL") is the only firm to submit a proposal.

The TPL is a national, non-profit land conservation organization that acquires land for people to enjoy as parks, gardens, natural areas, and open space. They have anticipated having the negotiations completed in approximately six months. The proposal submitted by the TPL is not to exceed $30,000 for negotiations and due diligence for property. In addition, an estimate of reimbursables for TPL in the amount of $28,790 ($25,000 for appraisals, title work and surveys, transportation, hotel, etc.) is included in the contract. Therefore the total contract amount for the proposal by the TPL is $58,790. Funds in the amount of $30,000 are available in the Parks and Recreation Department budget for this purpose. In addition, a grant in the amount of $20,000 has been applied for with The Pigeon River Fund. Earlier today a letter was received stating that the City has received a grant in the amount of $10,000.

Staff recommends that City Council appropriate funds, in the amount of $18,790, and direct the City Manager to enter into contract with the TPL to negotiate and secure right-of-way for the Broadway greenway.

Vice-Mayor Field felt that the TPL will work on creative ways to keep the costs down for the City, i.e., tax credits for the property owners, etc.

Upon inquiry of Mayor Martin, Mr. Bob Wurst, Audit/Budget Director, explained that the City has $100,000 set aside for the purpose of right-of-way on Broadway. City Manager Westbrook said that since we will be phasing in the greenways, if Council wishes, he will plan to put an amount into the budget each year for the construction and purchase of greenways.

Upon inquiry of Mr. Johnny Lloyd, Vice-Mayor Field said that the City has a separate sidewalk fund that is used to construction sidewalks.

Upon inquiry of Councilman Skalski about NC DOT participation, Ms. McLoughlin said that she has had several conversations with NC DOT asking them to provide pedestrian facilities on Broadway as they widen it. They will be constructing a sidewalk on the eastern side from W. T. Weaver Boulevard to Chestnut Street. She did note that NC DOT has worked with the City in trying to acquire some parcels on Broadway.

Councilman Worley wanted to make sure that the City will be billed for the actual costs, not a flat amount of $58,790.

Councilman Cloninger suggested a representative from TPL attend Council's next meeting.

Ms. Leni Sitnick suggested weaving into the negotiations the possibility of the property owners donating the easements as a happy birthday present to the City, since 1997 will be Asheville's 200th birthday. She suggested a plaque with those property owners names on it might be nice at the greenway site.

Upon inquiry of Mr. H.K. Edgerton if minority businesses were contacted concerning this proposal, Ms. McLoughlin said that there are only three companies nationwide that do this sort of work and she made contact only with those three.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

CITY ATTORNEY

Mayor Martin introduced the new City Attorney - Mr. Robert W. Oast Jr.

REPORT FROM TASK FORCE ON THE FUTURE OF THE CIVIC CENTER

Councilman Hay, Chairman of the Task Force on the future of the Civic Center, first introduced the Task Force members. He then reported that the Asheville Civic Center opened in 1974 and since that time has been the center for many of the entertainment, community, and convention events for the region. The bonds which financed the original construction have been satisfied, and for the first time in its history the Civic Center is operating without a subsidy from the City. The facility is as heavily used now as it has ever been, and in many ways the Civic Center has never been as productive.

City Council recognized this year that substantial capital improvements are due for the Civic Center, and that the traditional uses may well be changed by the construction of newer, larger, and more modern facilities in nearby cities such as Greenville, Hickory, Cullowee, and Charlotte. Council created a special City Council Task Force to study the issues and make recommendations on the future of the Civic Center and the means of financing any changes. The Task Force consists of Councilmen Edward Hay, Charles Worley, and Tommy Sellers; as well as Jan Davis, former Chair of the Civic Center Commission; Barbara Halton, former member of the Civic Center Commission; and Stephen Toomey, present Chair of the Civic Center Commission. At the invitation of the Task Force, Randy Fluharty, Chair of the Tourism Development Authority, has attended Task Force meetings.

The Task Force was directed to make a preliminary report in November, 1996, and final recommendations in March, 1997. The Task Force has met weekly since its creation in August, 1996.

It was decided early that before any progress could be made, the Task Force needed to canvas the community for direction, and created a series of three "round-table" meetings designed to encourage interest groups to express their opinions. In addition to the meetings, the Task Force developed a written survey and made presentations to key groups. After having heard from all concerned, the Task Force developed the Findings and Recommendations which follow.

FINDINGS

1. The community sees a need for multi-purpose facilities providing space suitable for arena events, performing arts and convention and meeting amenities.

2. Major improvements are necessary at the present Civic Center.

   a. Parking and access from the interstate are actual and perceived impediments to full use of the existing facility.

   b. The present location is satisfactory and, for many people, if the parking and access problems can be addressed.

   c. Access for presenters is a real impediment to full utilization of the existing facility.

   d. The Thomas Wolfe Auditorium needs significant upgrading, especially in the stage area and the acoustics of the auditorium.

   e. The present scale is sufficient to meet current civic and community needs, although traditional events, such as the circus and trade shows, may no longer use the facility.

3. Due to limitations in the existing facility, we are losing or stand to lose events which would be of economic benefit to the community and which help pay for the operation of the Civic Center.

   a. Lack of amenities, such as an adjacent hotel, meeting space and adequate exhibit space, deters larger conventions which would otherwise select Asheville.

   b. Touring performance acts will not stop here as they have done in the past in favor of more modern facilities in the region.

   c. Traditional presenters such as the circus and trade shows now find the facility too small to meet their needs.

   d. Sporting events, such as professional basketball and ice hockey, are not attracted to the current facility.

   e. There is interest in the community in expanding the planning for such a facility to include the Tourism Development Authority and Buncombe County.

   f. A professional market study will demonstrate the feasibility of multi-purpose facilities to meet economic opportunities, as well as addressing the current Civic Center's role in the long-term plan for the City.

Recommendations

1. Direct the Task Force to proceed with exploration of the desirability of multi-purpose facilities providing space suitable for arena events, performing arts and convention and meeting facilities by:

   a. Performing a market analysis to determine the market for multi-purpose facilities and the economic opportunities currently being lost and which might be available with a modern facility.

   b. Focusing on the feasibility of maintaining the facilities in the current location including land availability and architectural and engineering feasibility of modernizing and enlarging the existing facility.

   c. Determining the economic benefits to the City and region, both direct and indirect, to be derived from expanded multi-purpose facilities.

   d. Exploring the possibilities of public-private partnerships in connection with possible hotel, parking and other amenities as part of multi-purpose facilities.

   e. Determining possible methods of providing financing for multi-purpose facilities.

2. Expand the Task Force membership to include representatives from Buncombe County and the Tourism Development Authority.

3. Address the parking and accessibility problems associated with the current location of the Civic Center as a part of determining the feasibility of maintaining the facilities in the current location.

Councilman Hay said that if Council accepts the Task Force's recommendations, they will come back to the Council with the specifics on money relative to performing the market analysis.

Mayor Martin, on behalf of the Council, stated that the Task Force has done an excellent job to date.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

EXTENSION OF LEASE AGREEMENT FOR SHILOH COMMUNITY CENTER PROPERTY

Mr. Irby Brinson, Director of Parks & Recreation, said that the City of Asheville and the Buncombe County Board of Education entered into a lease agreement on December 1, 1976, which allowed the City to maintain and operate a recreation center located in the Shiloh community. This lease agreement expires December 2, 1996. Both parties wish to extend this lease agreement for two to three additional months in order for negotiations to continue which COULD result in a renewal of the lease agreement or possibly complete ownership of the property by the City of Asheville. This length of time is necessary in order to negotiate several options with the Buncombe County Board of Education.

The Parks and Recreation Department requests approval of an extension of the lease agreement with Buncombe County Board of Education for use of Shiloh property for recreation purposes.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

CHARLOTTE STREET SMALL AREA PLAN

Mr. Mike Matteson, Urban Planner, said that Planning and Development Department is formally requesting the AIA North Carolina Urban Design Assistance Program's assistance with the Charlotte Street Small Area Plan.

On April 2, 1996, City Council approved a process proposed by staff for the preparation of a small area plan for the Charlotte Street corridor. Additionally, Council established the makeup of a committee which was to be created to advise staff throughout the planning process. This advisory committee was in place by early May and the first committee meeting was held on May 30. The committee has met on five occasions and has identified the major issues (areas of concern and positive attributes) that it feels are important as they relate to Charlotte Street.

In June, the committee agreed to bring in Ron Morgan, a Charlotte based architect/urban designer, to give two presentations to the committee. The committee raised the $300 necessary for Mr. Morgan's visit and arranged for his lodging as well as the meeting space. Mr. Morgan gave these presentations with the hope of being hired to assist with the small area plan. Following his presentations, the committee did not feel that Mr. Morgan was the right person to help with the plan. They did, however, feel that some form of outside assistance would be beneficial to the planning process.

The committee has subsequently worked with staff on exploring various options for assistance, including planning consultants and local facilitators. The committee recently indicated their interest in bringing in an AIA North Carolina Urban Design Assistance Team (if feasible) to provide input and assistance. The committee (through the assistance of the residential and business community adjacent to and surrounding the street) has agreed to take responsibility for the extensive organizational tasks and some of the expenses associated with hosting the team. The committee is requesting $1,000 of City funds to cover the initial expense associated with bringing in the program's director for an evaluation visit.

This expense can be covered within the Planning and Development Department's budget and would not require an additional appropriation. The committee may request additional City funds at a later date. At this time, the total cost of bringing in the Urban Design Assistance Team is not known.

He then described the AIA North Carolina Urban Design Assistance Program by saying that the AIA North Carolina Urban Design Assistance Program is housed within North Carolina State University's School of Design. Its purpose is to "provide assistance to the communities of this state in the planning, design and management of the physical environment... and to identify methods of resolving problems of anticipated future growth and change".

Once the program's director receives a letter requesting assistance, he schedules a visit to the site to assess the feasibility of sending a team to work on the project.

At this point, the director will provide an estimate of the total costs associated with hosting a team. Staff has estimated that these costs would be between $7,000 and $12,000. The program's board must give final approval to send a team. The program receives more requests for assistance than they can provide.

When a community is selected for assistance, a team of professionals from the state are assembled. The team would be chosen to match the problem to be studied and would consist of planners, architects, landscape architects, engineers, etc. This cross section of experience would greatly enhance the ability to accomplish the goals of the Charlotte Street Small Area Plan and provide resources that city staff would not be able to provide.

Following a preparatory period, an intensive workshop is held by the team members and assisted by local citizens. This workshop usually runs for four days and culminates in a printed set of drawings and written recommendations. The workshop is open to the public and broad citizen participation is solicited.

Mr. Peter Batchelor, director of the program, has indicated that if assistance is requested, his site visit would likely occur in January, 1997, and the board would decide shortly thereafter whether a team would be sent.

If selected, a workshop would be held in the summer of 1997.

The Planning and Development staff will coordinate the efforts of the committee to organize the event and will work closely with the design team prior to and during the workshop. Recommendations from the workshop, which will be included in a final report, will be part of the information that staff will use in preparing the small area plan. The plan will be completed within approximately two months of the end of the workshop and presented to Council for approval and adoption as an amendment to the 2010 plan.

The Planning and Development staff recommends that Council approve a motion directing staff to request the assistance of the AIA North Carolina Urban Design Assistance program for the Charlotte Street planning process.

Mr. Charlton Bradsher, Chairman of the Committee, reiterated comments made by Mr. Matteson and felt that the AIA assistance would be a very beneficial tool to provide a needed focus for the Committee. He said that there is a strong commitment from the Committee to raise as much money as possible to bring the group to Asheville. The Committee feels that this Team will bring fresh ideas for the future development of Charlotte Street.

Councilman Sellers, liaison to the Committee, said that the City should not appropriate the $1,000 unless they have set aside the additional $7,000 if Asheville is selected for AIA assistance. He wondered if Council would be setting a precedence for other neighborhood groups to come in and request assistance with their small area plans, even though our present City staff has that capability. He noted that Haywood Road is also struggling with a plan.

Ms. Jane Mathews, liaison to the Committee from the Planning & Zoning Commission, said that a lot of the costs are not cash costs, but can be met with in-kind contributions. She said that visual information

is very important for this Committee and noted that there is productive work that the Committee can be working on prior to the workshop being held.

Upon inquiry of Mayor Martin, City Manager Westbrook said that the best policy may be to ask the community to pay for what is above and beyond the City can provide. He also felt that before signing any contract, the City should have the funds in hand - whether they be from the community or City funds.

Councilman Skalski strongly supporting bringing the AIA Team to Asheville because Charlotte Street needs good planning.

Upon inquiry of Vice-Mayor Field, Ms. Julia Cogburn, Planning & Development Director, said that the Committee is merely an advisory committee to Planning staff and the outcome from the workshop will go to City staff for inclusion in the Plan and final adoption by City Council.

Councilman Hay said that we do want to encourage working with the community and wondered if Council should table this matter for two weeks to see if some examples of what kind of things the community is willing to do to help defray the cost of bringing the Team to Asheville, i.e., housing.

Ms. Cogburn responded to Councilman Cloninger's inquiry if any City staff had experience with this type of workshop.

When Councilman Cloninger asked if the City has exhausted all of its in-house resources to move the Committee forward, Ms. Cogburn did not think so. She said that the Committee has explored several different avenues, however, it feels that it needs facilitation and visual assistance at this point.

Councilman Sellers said that if the Committee continues to meet on Wednesdays, he would not be able to attend. He said that since he has missed the last two meetings, which were held on Wednesdays, that the minutes of those meetings be sent to him.

It was the consensus of Council to postpone taking action on this request until the worksession on December 3, 1996, in order to give staff time to research Council's concerns and come up with possible solutions.

BILTMORE VILLAGE STREET LIGHTS

Ms. Maggie O'Connor, Historic Resources Commission Director, said that this resolution will authorize the City Manager to sign an agreement with the Biltmore Village Historic Museum Commission, Inc. for the purchase, installation and maintenance of 42 cast iron light fixtures for the Biltmore Village project in an amount not to exceed $70,000.

For the past five years, various parties including the City of Asheville and the property owners in the Biltmore Village Historic District have worked together to develop and implement a three phase public improvement plan within the Biltmore Village Historic District. Phase I of the plan is nearing completion. In order to complete Phase I, 42 cast iron light fixtures must be purchased and installed. There must also be some clear understanding of what entity will be responsible for maintenance as well as payment of electrical bills. The Biltmore Merchants' Association requested and received a commitment of intent from the City to share in the cost of completing Phase I of the project.

The commitment of intent is outlined in Resolution No. 95-135. Since adoption of Resolution No. 95-135, additional research and preparatory work has been done revealing that less cast iron light fixtures are needed at a cheaper rate than originally estimated. Additionally, it has been discovered that although the underground conduit for the light fixtures has been installed, the electrical wiring has not been installed.

Biltmore Village Historic District has requested that the remaining balance of funds after the purchase of the street light fixtures be utilized toward the cost of constructing the electrical system. It is estimated that the cost of the street lights will be $92,400 with the City sharing in one-half of this cost. Therefore, the balance of funds is estimated as $23,800 that may be used toward constructing the electrical system, which is estimated at $29,470.

The $70,000 to be awarded by the City may not be utilized by the Museum for any other purpose than the purchase of the cast iron light figures for Phase I and construction of the electrical system for the light fixtures. Provided, however, any residual funds remaining may be used for the purchase of one-half of the cost of light fixtures in Phase II.

The Biltmore Village property owners desire that the City enter into a contract specifically outlining the responsibilities and rights of each party relating to the funds to be provided by the City. Since the Biltmore Village property owners nor the Biltmore Village Merchants Association are legal entities capable of entering into a contract with a municipality, the Biltmore Village Historic Museum, Inc., a property owner in the project, desires and has been requested by the property owners in Biltmore Village to enter into the contract with the City.

Staff recommends adoption of the resolution.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

Council Chamber Renovations

Mr. Lyle Willis, Contract Administrator, said that the Parks and Recreation Department requests input from City Council on needed renovations to the Council Chamber of the City Hall building, and requests approval to solicit Requests for Proposal to obtain an architectural design firm to provide design services for these improvements.

Based on previous comments from City Council members regarding the poor audio-visual capabilities available in the Council Chamber, staff has determined that it is necessary to upgrade the level of media and data-processing services for City Council meetings, and that in order to make these upgrades, the services of an architectural design firm would be needed.

This design firm will need to work closely with the City's Historic Resources Commission to maintain the integrity of the historic features of the Council Chamber while designing and incorporating improvements to the Chamber that will include data terminals, a public address system, video cameras, overhead projection screens, security monitoring devices, and improved exit routes.

Because of the historic nature of the Council Chamber, staff feels that an architectural design firm would be best suited to assist in the renovations, by providing budgetary guidance regarding construction costs and being a liaison to the Historic Resources Commission.

The Parks and Recreation Department requests City Council approval to solicit Requests for Proposal from architectural design firms to design and review renovations in the City Council Chamber.

Vice-Mayor Field said that Request for Proposals should not be limited to "architectural" design firms and recommended deleting the work "architectural".

Councilman Worley fully supported the idea of modernizing the Chamber and hoped that we will be able to televise the City Council meetings.

Ms. Maggie O'Connor, Historic Resources Director, answered questions from Council about when the First Floor Conference Room would be ready for use by City Council for their worksessions.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

INSTITUTE OF GOVERNMENT REPRESENTATIVES

Vice-Mayor Field introduced Mr. Mike Smith and Mr. John Stevens from the Institute of Government, who will be meeting with her shortly to share innovative ways to deal with the community and the citizen participation process.

UDO SCHEDULE AND PUBLICITY PLAN

Ms. Julia Cogburn, Planning & Development Director, said that a proposed schedule for the review and adoption of the Unified Development Ordinance and the estimated costs for the required public notification is provided for Council's review and discussion.

The schedule proposes an adoption date of early March for the UDO text and of late April for the maps (zoning). The text would become effective upon adoption of the maps. Included in the schedule are dates for review and approval of the UDO text by the Planning and Zoning Commission, public meetings to review the staff mapping (zoning) proposals, and joint City Council/Planning and Zoning Commission public hearings. The dates proposed in the schedule are dictated in part by notice requirements established by state statutes. The schedule proposes three public hearings to receive comments on the text and two (2) public hearings to receive comments on the mapping (zoning). Public hearings to review the mapping (zoning) are proposed to be held jointly by City Council and the Planning and Zoning Commission. The mapping public hearings would be in addition to the five mapping public meetings to be held in mid to late January. The proposed schedule establishes a rigorous schedule for Council during the last week of February and the last week in March, with two public hearings each of these weeks in addition to Council's regular meetings. Direction is requested as to whether this schedule is too rigorous.

An extensive advertising campaign is proposed to provide citizens with adequate notice of the public meetings and hearings which will be held to inform the public of the content of the UDO. A certain amount of notification for zoning text and map amendments is required by North

Carolina General Statutes. State statutes require more extensive notification for the mapping changes than for the text changes. A standard legal notice fulfills the requirement for notification and advertisement for the public hearings on the UDO text. For the mapping public hearings, the legal notice must be run in the newspaper four times and must provide detail of the proposed changes. It is proposed that a two page advertisement be run four times in the Asheville Citizen-Times. The ad would include a small copy of the proposed zoning map of the entire city, with a larger map detailing the proposed zoning changes in one quadrant of the city. A different quadrant would be shown in each of the four notices. A brief description of the changes and details of the meeting time(s) and location would be included in the ad. In addition, state statutes require that all property owners who live outside the general circulation area of the newspaper receive first class mail notice of the public hearing(s) at which map changes will be discussed. First class mail notice of all property owners who live outside Buncombe County is proposed.

Additional publicity efforts are also proposed to inform citizens of the UDO. These efforts include placing notices of the public hearings and public meetings in the recycling containers ("curbies") which will be distributed to all households in the city in late December, 1996. Also proposed are an advertising campaign with special ads in the Citizen-Times, public information announcements on local radio stations, and infomercials on the local cable television station.

Cost estimates for the notification and publicity efforts are estimated at $47,355.96. The required notification is estimated to cost $35,612.96. Funds in the amount of approximately $35,000 were included in the departmental operating budget for the Planning and Development Department for UDO notification. Therefore, additional funds in the amount of $11,743.96 will be required if Council chooses to include the additional publicity costs. Council direction is requested with respect to the level of publicity which should be undertaken to inform the public of the UDO.

The proposed UDO Review and adoption schedule has been reviewed and approved by the Legal Department, the Planning and Development Department, and Councilmember Charles Worley. Direction is requested from Council on the schedule and on the proposed notification efforts. The notification and publicity cost estimates were prepared by Robin Westbrook based upon information provided by various media.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

STORMWATER CONCERNS - PINNACLE AT PARK AVENUE

Upon inquiry of Councilman Skalski about the progress to date on the Ralph Kiger development, Mr. Gerald Green, Senior Planner, said that they will have to go back through the group development process. He said that he is meeting with Mr. Kiger and his attorney tomorrow to go over the specifics of the requirements of the plan, the application of the hillside development ordinance, and other City ordinances as well.

CLOSED SESSION

At 7:41 p.m., pursuant to Rule 25 of the Asheville City Council's Rules of Procedure, Councilman Sellers moved to go into closed session for the following reasons: (1) to discuss matters relating to the location or expansion of an industry or other business in the area

served by the City Council, as authorized by G.S. 143-318.11 (a) (4); and (2) to consult with an attorney employed or retained by the City Council in order to preserve the attorney-client privilege between the attorney and City Council, as authorized by G.S. 143-318.11 (a) (6). This motion was seconded by Councilman Skalski and carried unanimously.

At 8:30 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Skalski and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:17 p.m.

Magdalen Bourleson
CITY CLERK

MAYOR

CAuth

DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

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—1—

112 Brooklyn Road - Public hearing continued re demolition, 96

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Tuesday - November 26, 1996 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Hay gave the invocation.

I. PROCLAMATIONS: None.

FUTURE LEADERS OF AMERICA

Mr. H.K. Edgerton recognized the Future Leaders of America, along with the Educational Chair of the NAACP, Ms. Ingram.

II. CONSENT:

Mr. H.K. Edgerton asked that Item I be removed from the Consent Agenda for individual discussion.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 12, 1996, AND THE WORKSESSION HELD ON NOVEMBER 19, 1996

B. RESOLUTION NO. 96-195 - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Summary: The terms of Kathryn Liss and Cynthia Janes expire on December 31, 1996. This resolution will reappoint Kathryn Liss and Cynthia Janes to each serve an additional three year term, respectively. Their terms will expire on December 31, 1999, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 336

C. RESOLUTION NO. 96-196 - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: The terms of Victor Trantham, Jim Samsel and Garry Moffitt expire on December 31, 1996. This resolution will reappoint Victor Trantham, Jim Samsel and Garry Moffitt to each serve an additional three year term, respectively. Their terms will expire on December 31, 1999, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 23 - PAGE 337

D. RESOLUTION NO. 96-197 - RESOLUTION REAPPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Summary: The term of M. Jerry VeHaun expires on January 1, 1997. This resolution will reappoint Mr. VeHaun to serve an additional two year term, term to expire January 1, 1999, or until his successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 338

E. **RESOLUTION NO. 96-198 - RESOLUTION REAPPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD**

Summary: The term of Mike Holcombe expires on January 19, 1997. This resolution will reappoint Mr. Holcombe to serve a three year term, term to expire January 19, 2000, or until his successor is appointed.

RESOLUTION BOOK NO. 23 - PAGE 339

F. **RESOLUTION NO. 96-199 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TRANSIT AUTHORITY**

Summary: The terms of Grace Dorn and Tom Tomlin expire on December 31, 1996. This resolution will reappoint Grace Dorn to serve an additional four year term, term to expire December 31, 2000, or until her successor has been duly appointed. This resolution will also reappoint Tom Tomlin to serve an additional four year term, however, Mr. Tomlin's reappointment is with the understanding that he will resign December 31, 1997, or as soon thereafter as the new Transit Facility is built.

RESOLUTION BOOK NO. 16 - PAGE 340

G. **RESOLUTION NO. 96-200 - RESOLUTION FINDING THE BOSTON WAY SPECIAL ASSESSMENT PROJECT COMPLETE, ASSESSING THE TOTAL COST AND CALLING FOR A PUBLIC HEARING ON DECEMBER 17, 1996, ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL**

RESOLUTION BOOK NO. 23 - PAGE 341

H. **RESOLUTION NO. 96-201 - RESOLUTION FINDING THE KITCHEN PLACE SPECIAL ASSESSMENT PROJECT COMPLETE, ASSESSING THE TOTAL COST AND CALLING FOR A PUBLIC HEARING ON DECEMBER 17, 1996, ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL**

RESOLUTION BOOK NO. 23 - PAGE 343

I. **RESOLUTION TO ADOPT PRIORITY RATING SYSTEM FOR COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATIONS FOR FISCAL YEAR 1997**

This item was removed from the Consent Agenda for individual discussion.

J. **MOTION SETTING A PUBLIC HEARING ON DECEMBER 17, 1996, TO AMEND THE ZONING ORDINANCE RELATIVE TO CONDITIONAL USE REQUIREMENTS FOR NURSERIES AND KINDERGARTENS**

K. **RESOLUTION NO. 96-202 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO A LEASE WITH BUNCOMBE COUNTY BOARD OF EDUCATION FOR THE SHILOH COMMUNITY CENTER**

Summary: The City of Asheville and the Buncombe County Board of Education entered into a lease agreement on December 1, 1976, which allowed the City to maintain and operate a recreation center located in the Shiloh community. This lease agreement expires December 2, 1996. Both parties wish to extend this lease agreement for two to three additional months in order for negotiations to continue which COULD result in a renewal of the lease agreement or possibly complete ownership of the property by the City of Asheville. This length of time is necessary in order to negotiate several options with the Buncombe County Board of Education.

The Parks and Recreation Department requests approval of an extension of the lease agreement with Buncombe County Board of Education for use of Shiloh property for recreation purposes.

RESOLUTION BOOK NO. 23 - PAGE 344

L. MOTION AUTHORIZING THE PARKS & RECREATION DEPARTMENT TO SOLICIT REQUESTS FOR PROPOSALS FROM DESIGN FIRMS AND REVIEW RENOVATIONS IN THE COUNCIL CHAMBER IN THE CITY HALL BUILDING

Summary: The Parks and Recreation Department requests input from City Council on needed renovations to the Council Chamber of the City Hall building, and requests approval to solicit Requests for Proposals to obtain a design firm to provide design services for these improvements.

M. MOTION CONFIRMING THE UNIFIED DEVELOPMENT ORDINANCE SCHEDULE AND PUBLICITY PLAN

Summary: The schedule proposes an adoption date of early March for the UDO text and of late April for the maps (zoning). The text would become effective upon adoption of the maps. Included in the schedule are dates for review and approval of the UDO text by the Planning and Zoning Commission, public meetings to review the staff mapping (zoning) proposals, and joint City Council/Planning and Zoning Commission public hearings. The dates proposed in the schedule are dictated in part by notice requirements established by state statutes. The schedule proposes three public hearings to receive comments on the text and two (2) public hearings to receive comments on the mapping (zoning). Public hearings to review the mapping (zoning) are proposed to be held jointly by City Council and the Planning and Zoning Commission. The mapping public hearings would be in addition to the five mapping public meetings to be held in mid to late January. The proposed schedule establishes a rigorous schedule for Council during the last week of February and the last week in March, with two public hearings each of these weeks in addition to Council's regular meetings.

An extensive advertising campaign is proposed to provide citizens with adequate notice of the public meetings and hearings which will be held to inform the public of the content of the UDO. A certain amount of notification for zoning text and map amendments is required by North Carolina General Statutes. State statutes require more extensive notification for the mapping changes than for the text changes. A standard legal notice fulfills the requirement for notification and advertisement for the public hearings on the UDO text. For the mapping public hearings, the legal notice must be run in the newspaper four times and must provide detail of the proposed changes. It is proposed that a two page advertisement be run four times in the Asheville Citizen-Times. The ad would include a small copy of the proposed zoning map of the entire city, with a larger map detailing the proposed zoning changes in one quadrant of the city. A different quadrant would be shown in each of the four notices. A brief description of the changes and details of the meeting time(s) and location would be included in the ad. In addition, state statutes require that all property owners who live outside the general circulation area of the newspaper receive first class mail notice of the public hearing(s) at which map changes will be discussed. First class mail notice of all property owners who live outside Buncombe County is proposed.

Additional publicity efforts are also proposed to inform citizens of the UDO. These efforts include placing notices of the public

hearings and public meetings in the recycling containers ("curbies") which will be distributed to all households in the city in late December, 1996. Also proposed are an advertising campaign with special ads in the Citizen-Times, public information announcements on local radio stations, and infomercials on the local cable television station.

N. RESOLUTION NO. 96-203 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BILTMORE VILLAGE HISTORIC MUSEUM COMMISSION INC. FOR THE PURCHASE, INSTALLATION, MAINTENANCE AND OWNERSHIP OF 42 CAST IRON LIGHT FIXTURES RELATING TO THE BILTMORE VILLAGE PROJECT

Summary: This resolution will authorize the City Manager to sign an agreement with the Biltmore Village Historic Museum Commission, Inc. for the purchase, installation and maintenance of 42 cast iron light fixtures for the Biltmore Village project in an amount not to exceed $70,000.

RESOLUTION BOOK NO. 23 - PAGE 345

O. MOTION ACCEPTING THE RECOMMENDATIONS FROM THE TASK FORCE ON THE FUTURE OF THE CIVIC CENTER

Summary: Recommendations are as follows:

1. Direct the Task Force to proceed with exploration of the desirability of multi-purpose facilities providing space suitable for arena events, performing arts and convention and meeting facilities by:

   a. Performing a market analysis to determine the market for multi-purpose facilities and the economic opportunities currently being lost and which might be available with a modern facility.

   b. Focusing on the feasibility of maintaining the facilities in the current location including land availability and architectural and engineering feasibility of modernizing and enlarging the existing facility.

   c. Determining the economic benefits to the City and region, both direct and indirect, to be derived from expanded multi-purpose facilities.

   d. Exploring the possibilities of public-private partnerships in connection with possible hotel, parking and other amenities as part of multi-purpose facilities.

   e. Determining possible methods of providing financing for multi-purpose facilities.

2. Expand the Task Force membership to include representatives from Buncombe County and the Tourism Development Authority.

3. Address the parking and accessibility problems associated with the current location of the Civic Center as a part of determining the feasibility of maintaining the facilities in the current location.

P. **RESOLUTION NO. 96-204 - RESOLUTION APPROVING THE SALE OF DISPOSAL PARCELS 2A & 3A (LOCATED APPROXIMATELY 200 FEET SOUTH OF THE INTERSECTION OF ASHELAND AND HILLIARD AVENUES) IN THE EAST RIVERSIDE REDEVELOPMENT PROJECT TO DRITTA ENTERPRISES.**

Summary: Disposal Parcels 2A and 3A are CS Commercial Service lots located approximately 200 feet south of the intersection of Asheland and Hilliard Avenues, comprising 10,347 square feet. The lots are irregular in shape and mostly flat at street level to a depth of about 150 feet then dropping sharply about 15 feet with the rear of the lot being on grade with South Grove Street. Dritta Enterprises is a N.C. partnership composed of Eugene L. Presley, Ralph P. Presley and Richard H. Presley and is the owner of adjacent property where Hayes & Lunsford Electrical Contractors Inc. is located. The bid from Dritta Enterprises includes the proposal to incorporate 2A and 3A into its existing property and to landscape the parcels to provide a green belt buffer for its existing property.

The bid of Dritta Enterprises, in the amount of $22,250, is not less than the established minimum price of $22,250. The upset bid process was followed and an upset bid was received by Dr. Albert Anderson in the amount of $23,412.50. The upset bid process was followed and an upset bid was received by Dritta Enterprises in the amount of $25,000. The upset bid process was followed and an upset bid was received by Dr. Albert Anderson in the amount of $26,345. The upset bid process was followed and an upset bid was received by Dritta Enterprises in the amount of $27,750. The upset bid process was followed and an upset bid was received by Dr. Albert Anderson in the amount of $29,187.50. The upset bid process was followed and an upset bid was received by Dritta Enterprises in the amount of $30,700. The upset bid process was again followed and no upset bid was received.

RESOLUTION BOOK NO. 23 - PAGE 346

Q. **RESOLUTION NO. 96-205 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT DEEDS & RIGHT-OF-WAY AGREEMENTS FROM PRIVATE PROPERTY OWNERS ARISING FROM REAL PROPERTY ACQUISITION RELATING TO THE GLENDALE AVENUE BRIDGE PROJECT**

Summary: By Resolution No. 92-29 adopted on March 17, 1992, the Asheville City Council authorized the Mayor of the City of Asheville to sign a municipal bridge agreement and all related documents approved by the City Attorney with the North Carolina Department of Transportation for replacement of Glendale Bridge over the Swannanoa River.

On April 7, 1992, the Mayor executed a municipal bridge agreement with the North Carolina Department of Transportation. That municipal bridge agreement requires the municipality to acquire all necessary rights-of-way needed so as to complete the project in accordance with the approved plan for the Project. The agreement further requires that the municipality not proceed with acquiring said rights-of-way until such time as the municipality is authorized to proceed by the Department. The Department has now authorized the City to proceed with acquiring the necessary rights-of-way in order to successfully replace the Glendale Avenue Bridge. City staff has identified two parcels located along the Swannanoa River that are necessary for the successful replacement of Glendale Bridge along with a further need to obtain a temporary construction easement. While no additional parcels have been slated for acquisition, it is possible that additional rights-of-way may be needed as the Project gets underway. The City will need to acquire the fee simple interest and temporary construction easements from two

separate property owners. It is currently anticipated that the acquisition costs for these parcels will not exceed $5,000.

Acceptance of the fee simple interest in said rights-of-way must be clearly shown on both deeds to be forwarded to the North Carolina Department of Transportation before this Project can commence.

The Public Works Department staff recommend adoption of the resolution.

RESOLUTION BOOK NO. 23 - PAGE 347

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Skalski moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Sellers and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2335 - BUDGET AMENDMENT RELATIVE TO MAINTENANCE RESPONSIBILITIES FOR 35 ADDITIONAL TRAFFIC SIGNALS

Summary: This budget amendment, in the amount of $19,500, is to add revenue from the N.C. Dept. of Transportation for the City's acceptance of maintenance responsibilities for 35 additional traffic signals with reimbursement.

ORDINANCE BOOK NO. 16 - PAGE 128

B. ORDINANCE NO. 2336 - BUDGET AMENDMENT FOR ADDITIONAL PUBLICITY COSTS REGARDING THE UNIFIED DEVELOPMENT ORDINANCE

Summary: This budget amendment, in the amount of $12,356, is for additional publicity costs regarding the Unified Development Ordinance. This will increase the amount appropriated for UDO publicity from $35,000 to $47,356.

ORDINANCE BOOK NO. 16 - PAGE 130

C. ORDINANCE NO. 2337 - ORDINANCE PROHIBITING TRUCK TRAFFIC ON LULA STREET, IRWIN STREET, REED STREET, RICHMOND HILL DRIVE AND THOMAS STREET

ORDINANCE BOOK NO. 16 - PAGE 132

D. ORDINANCE NO. 2338 - ORDINANCE REDUCING THE SPEED ON LULA STREET, IRWIN STREET, THOMAS STREET, SUMMIT STREET AND RICHMOND HILL DRIVE TO 20 MILES PER HOUR AND REDUCING THE SPEED ON REED STREET TO 25 MILES PER HOUR

ORDINANCE BOOK NO. 16 - PAGE 133

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and only reading.

ITEM REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION

RESOLUTION NO. 96-206 - RESOLUTION TO ADOPT PRIORITY RATING SYSTEM FOR COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATIONS FOR FISCAL YEAR 1997

Summary: The City will be receiving $1,587,000 from HUD through the Community Development Block Grant program for the year beginning July 1, 1997. The funding must be used for activities that benefit low and moderate income persons or aid in the prevention or elimination of slums and blight. At least 70 percent of the funding must be used for activities that benefit low and moderate income persons. Each year during the months of February/March the City evaluates applications received from agencies that have applied to the City for CDBG funding. The deadline to submit the application to the City is January 31, 1997.

The Housing and Community Development Committee discussed the priority rating system in November 1996 and recommends the approval of the attached rating system which gives highest priority to affordable housing projects.

Community Development staff recommends adoption of the resolution.

Mr. H.K. Edgerton urged City Council to reconsider the rating for projects which provide economic development activity for low-moderate income persons as defined by HUD.

Vice-Mayor Field said that this rating system is clearly based on the priorities of the Council. She felt that the issue has been addressed regarding the creation of jobs.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 96-206. This motion was seconded by Councilman Hay and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 348

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CLOSE EVELAKE DRIVE WHERE IT DEAD ENDS WITH THE CITY OF ASHEVILLE TERRITORIAL LINE, ADJACENT TO HAZEL TOWNSHIP

RESOLUTION NO. 96-207 - RESOLUTION CLOSE EVELAKE DRIVE WHERE IT DEAD ENDS WITH THE CITY OF ASHEVILLE TERRITORIAL LINE, ADJACENT TO HAZEL TOWNSHIP

Mayor Martin opened the public hearing at 5:18 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Suzanne Molloy, Assistant Director of Public Works, said that the residents of Camelot Community and members of Camelot Community Watch have requested that Evelake Drive at a point 2305 feet from the intersection with Leicester Highway be permanently closed to public use.

The request to close the street contained 134 signatures from residents of the Camelot neighborhood. Some residents who purchased their homes on Evelake Drive thought that Evelake Drive was a dead-end. Residents reported that through traffic from an illegal driveway connection outside the City limits since 1978 has resulted in safety problems on the residential street. In response to the request, City staff installed temporary barricades at this dead end portion of Evelake Drive to further evaluate the problem. Subsequent to the installation of the barricades, motorists disregarded the temporary safety improvement and destroyed the barricades. This particular access point continued to be used as a short cut for motorists entering and exiting a local mobile home park in Buncombe County. Said mobile home park maintains permanent existing access at Smith Graveyard Road.

City staff has found that motorists transversing Evelake Drive from the mobile home park were disregarding posted speed limits, children playing, pedestrians, residents backing out of driveways, and littering the roadway. Staff has determined that this closure will promote the public safety of all residents living on Evelake Drive. All owners of adjoining property effected by the street closing have been notified by certified mail of the Resolution of Intent to permanently close the street.

The Public Works Department staff recommends the closing of Evelake Drive at a location 2305 feet from the intersection with Leicester Highway be approved due to safety concerns and based upon the fact that the adjacent property in Buncombe County has access to Smith Graveyard Road.

Upon inquiry of Councilman Hay of how this is an illegal driveway connection, Ms. Molloy explained that to have a connection to any City road, you have to apply for a driveway access permit, which was never applied for.

Mayor Martin said that he had received a letter from Mr. Ken Simmons of 42 Evelake Drive who supported the road closing.

Upon inquiry of Mayor Martin, Mr. James Cheeks, Traffic Engineer, said that at the end of the road a guardrail with three panels of reflecting sheeting on both sides would be installed.

When Vice-Mayor Field asked about room to turn around at the end of the road, Mr. Cheeks said that there is a circular area there now, somewhat like a cul-de-sac.

The following persons spoke in support of the road closing for various reasons, some being, speeding on Evelake Drive, litter, a dead-end sign was on Evelake Drive when some purchased their houses, drugs and alcohol, vandalism and larceny:

Ms. Judy Cagle, resident on Evelake Drive
Ms. Sharon Domingo, area resident
Two residents at 37 Evelake Drive
Ms. Brenda Simmons, 42 and 46 Evelake Drive
Mr. Harvey Elkins, area resident

Ms. Diane O'Kelley, speaking on behalf of the owner of the mobile home park, said that in 1978 when that portion of the mobile park was built, the developers of the Camelot Subdivision said that because the Camelot property line directly abutted the trailer park part, that there was no buffer in between and they did have access to Evelake Drive. However, she said there are no written documents stating that. She said

that they are opposed to the closing, they have retained legal counsel and, there is litigation pending. For the mobile home residents to have to go out Smith Graveyard Road rather than direct access onto Evelake Drive is an inconvenience to them. She said that it was unfair to penalize the 22 people who live in the mobile home park just because one or two of them are bad.

Mr. Jeff Penley, 205 Smith Graveyard Road, spoke in opposition to the road closing. He felt that the safety issue could also be addressed by the mobile home park residents. The inconvenience of the closing would also delay rescue and police from reaching the mobile home park quickly.

Mayor Martin closed the public hearing at 5:44 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Cloninger moved for the adoption of Resolution No. 96-207. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 360

B. PUBLIC HEARING TO CONSIDER REZONING 223 EAST OAK VIEW ROAD FROM LI LIGHT INDUSTRIAL TO R-3 MEDIUM DENSITY RESIDENTIAL

ORDINANCE NO. 2339 - ORDINANCE TO REZONE 223 EAST OAK VIEW ROAD FROM LI LIGHT INDUSTRIAL TO R-3 MEDIUM DENSITY RESIDENTIAL

Mayor Martin opened the public hearing at 5:45 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this Ordinance seeks the rezoning of lot 9627-12-75-7736 from LI Light Industrial to R-3 Medium Density Residential.

The subject property is approximately one acre. The lot is located on East Oak View Road off of Brevard Road. The lot contains one residential structure. The 2010 Plan recommends low density residential along this area of Hominy Creek. The current character of the area south and east of the subject property is light industrial but there remains a small pocket of residential structures between the interstate and the industrial development.

The Planning staff reviewed the rezoning request and recommended approval of the rezoning of lot 9627-12-75-7736 from LI to R3. At their November 6, 1996, the Planning & Zoning Commission voted unanimously to recommend approval of the rezoning.

Mayor Martin closed the public hearing at 5:49 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2339. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2339 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 134

IV. UNFINISHED BUSINESS:

A. RESOLUTION NO. 96-208 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A NON-WARRANTY DEED TO AN ASSOCIATION OF PROPERTY OWNERS ADJOINING TINGLE ALLEY

Mayor Martin said that this matter was postponed on August 13, 1996, and then again on September 24, 1996, and again on October 22, 1996, until this date to give the property owners in the area time within which to discuss this issue.

Councilman Cloninger asked that he be excused from voting because his firm, of which he is a partner, represents Ms. Lantzius. Therefore, Councilman Worley moved to excuse Councilman Cloninger from voting due to a conflict of interest. This motion was seconded by Councilman Skalski and carried unanimously.

City Attorney Oast explained that it is the position of the City of Asheville that Tingle Alley, the adjacent open court and the wall are all on private property and are not a City responsibility. One way to extinguish any interest that the City does have is a non-warranty deed. Within the last hour it has come to his attention that an agreement has been agreed to by Ms. Dawn Lantzius who is the owner of the property upon which the wall is located and owner of a substantial portion of the property surrounding the alley and court. That agreement, by and between Ms. Lantzius and most, if not all, of the other property owners along that alley, is for the disposition of it once the City executes the deed. He recommended Council authorize the Mayor to execute a non-warranty deed to an association of property owners along Tingle Alley. The name of the association is not known at this time. City Attorney Oast noted that if Ms. Lantzius' attorney is unable to obtain the signatures on the agreement of all the property owners along Tingle Alley, then this matter will be back before Council.

Mr. Doug Thigpen, attorney representing Ms. Dawn Lantzius, said that he fully anticipated having all signatures on the agreement and apologized for not having it for this meeting. He stated, however, that the property owners have agreed verbally to sign the agreement. He said the name of the grantee on the deed will be consistent with the signatories on the agreement, something along the line of naming the individuals and then saying "organized as an unincorporated association known as the Tingle Alley Cooperative Association."

City Manager Oast recommended that the grantee on the deed be the association or all of the property owners that abut that alley rather than just one.

Councilman Worley read the resolution authorizing the Mayor to execute a non-warranty deed to an association of property owners adjoining Tingle Alley conveying any interest that the City may have in Tingle Alley and open court.

Councilman Worley then moved for the adoption of Resolution No. 96-208. This motion was seconded by Councilman Hay and carried unanimously.

V. NEW BUSINESS:

A. DISCUSSION AND DIRECTION ON W.T. WEAVER BOULEVARD AND BROADWAY AVENUE GREENWAYS

ORDINANCE NO. 2340 - BUDGET AMENDMENT, IN THE AMOUNT OF $27,000, RELATIVE TO THE W.T. WEAVER BOULEVARD GREENWAY

Ms. Erin McLoughlin, Urban Planner, brief the Council on the W.T. Weaver Boulevard greenway first. She reviewed the information she presented to Council at their worksession on November 19, 1996.

Planning staff recommends (1) an 8-foot multi-use greenway be located in UNC-A's lawn area between W.T. Weaver Boulevard and Glenn Creek; (2) that Phase I and Phase II be reversed, so that the eastern portion of the project would be completed first (in the spring of 1997); (3) that vehicular traffic beginning at the Merrimon Avenue intersection be reduced from 4 lanes to 3 for approximately 1,000 feet to accommodate a greenway separated from automobile traffic by a 3-4 foot landscaped strip; and (4) that an additional $27,000 be appropriated so that the eastern portion of the project may be completed in the spring of 1997.

Councilman Hay said that after visiting the area several times since the last meeting to consider which options might better serve the community, he was now comfortable with reducing that portion on W.T. Weaver Boulevard to three lanes.

Vice-Mayor Field moved to accept staff's recommendations as outlined above by Ms. McLoughlin. This motion was seconded by Councilman Skalski and carried unanimously.

Audit/Budget Director Bob Wurst explained the budget amendment noting that the amendment will set up a project appropriation for the W. T. Weaver Boulevard greenway in the amount of $107,000. Funding in the amount of $10,000 for design of W. T. Weaver Boulevard sidewalks was included in the 1995/96 Street & Sidewalk Program of which $8,846 is unspent. The 1996/97 Street & Sidewalk Program includes $80,000 for W. T. Weaver Boulevard. Staff has recommended that these funds along with an additional $18,154 from surplus 1995/96 Sidewalk funding be reprogrammed to the W. T. Weaver Boulevard Greenway Project.

Vice-Mayor Field commended Ms. McLoughlin and Mr. Al Kopf, Landscape Architect, for this innovative solution of a greenway along W.T. Weaver Boulevard. She was pleased that the City was moving forward with greenways in the City.

Mayor Martin said that members of Council have been previously furnished with a copy of the budget amendment ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2340. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, Ordinance No. 2340 passed on its first and final reading.

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Ms. Erin McLoughlin, Urban Planner, then briefed the Council on the Broadway greenway. She reviewed the information she presented to Council at their worksession on November 19, 1996.

Ms. McLouglin said that for many years discussion has taken place on the desire to construct a greenway along Broadway in conjunction with the Broadway Widening Project which is currently underway. Staff has determined that currently much of the needed right-of-way is in private ownership. These property owners will need to be approached and negotiated with in order to secure the right-of-way necessary for the greenway. Many forms of negotiations are used for greenways, including easements, donations, fee simple and combinations of these. Staff sought proposals from national conservation firms. The Trust for Public Land ("TPL") is the only firm to submit a proposal. The TPL is a national non-profit land conservation organization that acquires land for people to enjoy as parks, gardens, natural areas and open space. The total contract amount for the proposal by TPL is $58,790, which includes reimbursables for appraisals, title work, surveys and travels. Funds in the amount of $30,000 are available in the Parks & Recreation budget for this purpose. In addition, the City of Asheville applied for and received $10,000 from the Pigeon River Fund. Staff recommends that City Council (1) appropriate funds in the amount of $18,790; (2) direct the City Manager to enter into contract with the TPL to secure the right-of-way for the Broadway greenway; and (3) authorize the City Manager to sign the grant acceptance agreement with the Pigeon River Fund.

Upon inquiry of Councilman Hay about what the City will be obligated to do if they accept the $10,000 grant, Ms. McLoughlin said that the City applied for the grant to hire a professional land conservation organization to secure right-of-way, so it will need to be used for negotiating fees.

Mr. H.K. Edgerton stated that he did support greenways. However, he felt that the City should have had to go through the Minority Business Program. Even though Ms. McLoughlin stated at the last meeting that there were only three firms in the nation that did this type of work, it is imperative that the City follow the procedures that are designed to help disadvantaged people.

Ms. McLoughlin felt that Mr. Edgerton was correct and she apologized for not making contact with the Minority Business Affairs office prior to obtaining proposals. She did note that she has since talked to the Minority Business Coordinator and any future proposal that she handles will be brought to the attention of that Office.

Mayor Martin noted that he has received a letter from the Mayor of Winston-Salem endorsing the selection of TPL.

Councilman Worley moved to authorize the City Manager to sign a grant acceptance contract with the Pigeon River Fund. This motion was seconded by Councilman Cloninger and carried unanimously.

Audit/Budget Director Bob Wurst explained the budget amendment noting that the amendment will set up a project appropriation for the Broadway Greenway in the amount of $225,487. This budget action combines previously approved funding for the Broadway Greenway in the amounts of $166,697 in prior years Capital Improvements Plans along with $30,000 in the current Parks approved Capital Plan with a $10,000 Grant from the Pigeon River Fund and $18,790 of General Capital Contingency to establish a project appropriation totaling $225,487 for this project. The General Capital Contingency balance is $74,210 after this action.

Councilman Cloninger moved to authorize the City Manager to enter into a contract with The Trust for Public Land to negotiate and secure right-of-way for the Broadway greenway. This motion was seconded by Councilman Worley and carried unanimously.

Mayor Martin said that members of Council have been previously furnished with a copy of the budget amendment ordinance and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2341. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, Ordinance No. 2341 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 138

VI. OTHER BUSINESS:

A. HOUSING

Councilman Hay said that the Housing & Community Development Committee would like the City Council to consider making housing issues a higher priority for the work of the City and the work of the Council. On behalf of the Committee, he asked that this topic be discussed at Council's retreat in January. Since the Affordable Housing Coalition has invited City Council to take a tour to see the housing needs in the City, he felt it might be good to take that tour prior to the January retreat.

It was the consensus of Council to take a tour with the Affordable Housing Authority on Tuesday, December 17, 1996, at 2:30 p.m. A meeting place to start the tour will need to be coordinated with the Affordable Housing Coalition.

B. RESOLUTION NO. 96-209 - RESOLUTION APPOINTING A MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

City Clerk Burleson read the resolution stating that the term of Jewell Wilson expired on November 13, 1996. This resolution will appoint Ralph Morris to serve a three year term, term to expire November 13, 1999, or until his successor is appointed.

Councilman Worley moved for the adoption of Resolution No. 96-209. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 16 - PAGE 352

C. RESOLUTION NO. 96-210 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

City Clerk Burleson read the resolution stating that the terms of Ann Cross and Lewis Clay, as Regular Members, and Burt Stanford and Michelle Rippon, as Alternate Members, expire on January 21, 1997. This resolution will appoint Darryl Hart and David Young as Regular Members to the Board of Adjustment and reappoint Burt Stanford and appoint Chris Goodwin as Alternate Members to the Board of Adjustment. All terms are to begin January 21, 1997, respectively, and expire on January 21, 2000, or until their successors have been appointed and qualified.

Vice-Mayor Field said that there were many fine applicants for the Board of Adjustment and the decisions made were difficult.

Councilman Hay felt that City Council worked hard for a balanced board. He noted that in the next quarter City Council will be accepting applications for the Asheville School Board, the Civic Center Commission and the Water Authority.

Councilman Worley moved for the adoption of Resolution No. 96-210. This motion was seconded by Councilman Hay and carried unanimously.

RESOLUTION BOOK NO. 16 - PAGE 358

D. PARKING VIOLATIONS

Mr. Edward E. Loewe, 17 Inglewood Road, presented City Council with a letter regarding parking violations. He also presented Council with 71 photographs which he took in an approximate 2-1/2 hour period showing 108 vehicles on 42 streets illegally parked in some fashion. He urged City Council to enforce this law.

E. CLAIMS

The following claims were received by the City of Asheville during the week of November 1-14, 1996: Educational Lumber Company (Water), Sarah Ruth Blackmon (Police), Billy Mauldin (Parks & Recreation), Earl N. Lewis (Water) and John McBroom (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:36 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - December 3, 1996 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman M. Charles Cloninger

EVALUATION OF FINANCE DEPARTMENT OPERATIONS AND THE DEVELOPMENT REVIEW AND PERMITTING PROCESS

City Manager Westbrook said that he is requesting Council approval to contract with the N.C. League of Municipalities ("League") to perform an evaluation of the Finance Department and the City plan review and permitting process.

During Fiscal Year 1995-96 budget, he requested and City Council approved an appropriation to evaluate the organization, management and operations of the Finance Department. In July of 1996, the incumbent Finance Director retired and the appropriation was carried forward in order to have the study take place during the current fiscal year. Both he and Mr. Bill Schaefer, who was appointed Finance Director in the fall of 1996, believe that a fresh look by an independent third party would give us a chance to improve the organization, management and operations of the Finance Department.

There has been much discussion about the City's Development Review and Permitting Process over the past several years. Feed back from developers is that the process is too long and cumbersome. We do not have any good benchmarks to determine our success, or lack of success, in these areas. Therefore, he recommended an evaluation by an independent third party who will perform the evaluation. The purpose of the evaluation will be to examine the process for efficiency, effectiveness and provide benchmarks of similarly sized cities with which to compare operations and results. The consultant in all cases will make recommendations they feel would improve the process, improve effectiveness and provide better customer service.

Some of the processes the consultant will look at may be changed as a result of the adoption of the UDO. This information will be provided to the consultant for their review, in addition to any other information they may request.

He recommended contracting with the League who will select and provide overall project direction for the evaluation, as discussed above.

The cost of the study is $30,000. We currently have $10,000 appropriated for that purpose; therefore, a supplemental appropriation of $20,000 is needed.

Staff recommends the Mayor be authorized to sign an agreement with the North Carolina League of Municipalities to perform the studies as outlined above, and an appropriation of $20,000 to complete the funding for the studies.

Mr. Woody Underwood, Director of Operations from the League, and Mr. John Maxwell, Vice-President of Municipal Advisors Inc., reviewed what the studies would involve.

Vice-Mayor Field said that since we already have an exceptional staff, she wanted to make sure that any improvements suggested were positive improvements. She also suggested that if some overlapping occurs with our permitting system interacting with other levels of government, that the League support changes at the State level that would make our process better.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

YMI FUNDING REQUEST

Ms. Cindy Batson, Internal Auditor, said that the YMI Cultural Center, Inc. has requested $10,000 from the City of Asheville to provide interim finances to cover certain overhead expenses.

The City Council Outside Agency Committee ("Committee") met to discuss the funding request of $10,000 from the YMI Cultural Center. The Committee expressed its continuing interest in supporting the South Pack Square Redevelopment area. The Committee also recalled the $8,000 in funding provided by the City to the YMI Cultural Center during fiscal year ending June 30, 1996. The purpose of the $8,000 in funding was the same as for the current request, that being to provide interim finances for overhead expenses.

The Committee has a number of concerns regarding the funding request, including the fact that no current audit has been performed, the Internal Revenue Service has levied the Center's bank account to satisfy payroll deposits, the Center has had limited success with recent fund-raising initiatives, the Center's proposed corrective measures do not include specific, attainable action steps, and the Center has made no progress towards procuring funding to otherwise meet its overhead expense obligations.

The Committee recommends the City Council deny approval of the $10,000 funding request from the YMI Cultural Center Inc. until such time as the Committee concerns have been satisfied.

Councilman Worley said that the Committee is very supportive of the YMI and it was with reluctance that they did not recommend the funding. He said that the Committee would like to see a plan that would help bring the YMI out from its financial problems and then they would reconsider the request.

Mayor Martin asked the City Attorney to research if a non-profit corporation could go into bankruptcy and a receiver be appointed to manage the affairs of the corporation.

Upon inquiry of Vice-Mayor Field about the YMI having no building or content insurance, Assistant City Manager Doug Spell said that the City's Risk Manager did submit a proposal to the YMI for a reasonable rate, however, the City did not receive a response from them.

Dr. Mosley said that they are conscious of the situation from a year ago and since then, a new Board of Directors have been appointed. They are now in the process of getting the YMI under fiscal control. He said that there is currently an audit in process. They have planned a retreat on December 21 which will reassess the programmatic thrust of the YMI and research how the YMI can access funds to satisfy the IRS lien. He said that they have been in touch with an insurance company which has assured them that they would be willing to insure the building

provided measures be taken for an alarm system and they are in the process of taking those measures. He felt the City Council should be supportive of the YMI in some tangible way and assured Council that they are making every effort to try to bring the YMI out of fiscal problems. He said that every major organization of minority background looks to the YMI facilities to hold their meetings, i.e., churches, NAACP, Eagle/Market Streets Development Corporation. He felt it would be a great loss to lose the building that is worth over One Million Dollars to a $48,000 IRS lien.

Mayor Martin stressed that City Council is supportive of the YMI but they do need to see some results from their funding.

Councilman Hay wondered if Council would be amenable to bringing this matter back up in a month after the YMI has resolved some of the pending issues, i.e., insurance and audit.

Councilman Skalski was concerned with the building having no insurance and suggested physical presence in the building, perhaps with volunteers.

Mayor Martin asked that the Committee meet with Dr. Mosley to see if any issues could be resolved.

Mr. H.K. Edgerton, representative of the local NAACP, spoke in support of the YMI and felt that since the NAACP moved into the community in the YMI building, there has been a big change on that block. He suggested Council talk to the IRS to see if the debt can be forgiven. He said that whether or not the City funds the YMI, the NAACP will see how they can help raise the YMI out of their financial crunch.

REQUEST FOR STREET ACCEPTANCE - HILLS OF BEAVERDAM

Mr. Tony Lewis, Technical Services Director for the Engineering Department, said that staff is requesting Council consideration regarding the petition for acceptance of roads for maintenance by the City within the Hills of Beaverdam Subdivision.

The Engineering Department along with the Public Works Department over the course of the last two years has been working with the Hills of Beaverdam Homeowners Association to facilitate the acceptance of streets within the existing subdivision. The Homeowners Association has completed the appropriate street acceptance petition and collected the necessary revenues to complete the rehabilitation of the streets prior to city acceptance.

The streets were not constructed to City street standards. Therefore, the streets must be rehabilitated prior to acceptance for maintenance by the City. Rehabilitation of these streets consists of providing road construction rehabilitation of 1.1 mile of streets which serve 45 residential lots. The existing streets have varying slopes of 5% to 15%. The proposed cost for improvements of the homeowner participation is estimated $137,000. However, the City would contribute toward the project by contributing the necessary labor and equipment for the rehabilitation.

The Engineering Department has completed construction plans for the necessary street repairs and construction. The Public Works Department - Streets Division will provide construction repairs thereby the city contributing associated labor and equipment as public/private participation on the project. The proposed project schedule is to begin project construction in the spring of 1997.

The City Attorney's Office will prepare required contract documents for the acceptance and approval by the City Manager's office. The City Manager will enter into the agreement with the Homeowners' Association for collection of funds needed to purchase materials and supplies to complete the necessary scope of work. The agreement will stipulate that any residual funds will be reimbursed or any additional funds must be provided by the Homeowners' Association. As part of the acceptance process, all necessary rights-of-way and easements must be transferred to the City of Asheville for acceptance by City Council.

Staff requests approval of the resolution which consists of consideration of this request for the City to accept the designated streets for maintenance and to participate with the Homeowners' Association by contributing labor and equipment for the project.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place the resolution authorizing staff to proceed with negotiations on the next formal City Council agenda.

REQUEST CONCERNING ASSISTANCE WITH THE CHARLOTTE STREET SMALL AREA PLAN

Mr. Mike Matteson, Urban Planner, said that the Charlotte Street Small Area Plan Advisory Committee has not met yet to discuss Council's concerns and requested that this matter be postponed until January 7, 1997.

LEGISLATIVE PROGRAM

City Manager Jim Westbrook presented City Council with a draft legislative program for their review. He suggested City Council request the local delegation to designate a contact person for us to rely on for information as the General Assembly goes through its session.

City Attorney Oast suggested the following three items that City Council may want to include in their 1997 legislative program:

1. Repeal of the exemption in G.S. 160A-458.3 for municipalities in Buncombe County, thus giving Asheville the same opportunities for downtown development as other North Carolina cities have.

   Except for Asheville and other cities in Buncombe County, the governing bodies of all North Carolina cities can undertake downtown development projects within the central business district as defined by the city council. For Asheville, however, the boundaries of our central business district are set forth by local act and include a much smaller area than our central business district actually covers. For other municipalities in Buncombe County, there is no authority at all for such projects.

   This draft legislation lifts this restriction, bringing Buncombe County's municipalities under the coverage of the statewide law and enabling Asheville to decide for itself the are to include within its central business district.

2. Authorization for an increase in the annual motor vehicle tax from $5.00 to $10.00.

   The statewide law that authorizes cities to levy a tax on motor vehicles limits this tax to $5.00, but some cities have granted authority for higher amounts. At least eight cities have authority to levy motor vehicle taxes as high as $20, at least

five have authority for a $15 tax, and at least seven can levy a $10 tax.

Asheville does not currently have legislative authority to levy a motor vehicle tax of more than $5.00. This draft legislation would authorize a $10.00 tax.

3. Amendment of G.S. 136-27.1 to provide for payment of relocation costs of water and sewer lines belonging to water or sewer systems organized pursuant to G.S. 160A-462 (local modification for Buncombe and Henderson counties).

G.S. 136-27.1 requires the state Department of Transportation to pay the nonbetterment cost for the relocation of water and sewer lines of certain entities when the lines are located within an existing state highway right-of-way and must be relocated for a state highway improvement project. These entities include nonprofit water or sewer associations or corporations, as well as water or sewer systems organized pursuant to G.S. 162A.

The Asheville-Buncombe Water Authority, which was organized pursuant to G.S. 160A-462 rather than G.S. 162A, does not fall in any of the categories for which DOT is required to pay relocation costs. Therefore, when a state highway improvement project requires that its lines be relocated, the Water Authority does not receive reimbursement for this expense.

This draft legislation, which is written as a local bill for Buncombe and Henderson counties, would add a new category to G.S. 136-27.1, requiring DOT to pay relocation costs for lines constructed by a water or sewer system in those counties which was organized pursuant to G.S. 160A-462.

City Attorney Oast said that the General Assembly will convene on January 29 for its 1997 session, so there is still time to develop additional requests before meeting with the delegation.

It was the consensus of Council to request authorization for an increase in the annual motor vehicle tax from $5.00 to $15.00, stressing that City Council is not taking any action to raise it, they are only asking for the authority. They felt this might be a good additional revenue source to repair streets and roads in Asheville.

Mayor Martin said that a date will be set for City Council to meet with the local delegation sometime in December, if possible.

Upon inquiry of Councilman Hay about proposed legislation regarding historic trees, City Attorney Oast said that his staff is checking with the cities of Greenville and Wilmington that have similar legislation concerning that to see if Asheville can be included.

City Attorney Oast responded to questions from Mr. Ralph Bishop concerning the City Charter and State law.

Mr. H.K. Edgerton suggested City Council consider amendment to the Civil Service Law regarding the Rule of Three.

Mr. Leni Sitnick suggested legislation regarding hillside development regarding private property rights when they impact other private property rights. She also suggested Council consider the possibility of infrastructure participation fees for tourists.

Mayor Martin instructed the City Manager to proceed with appropriate action at the next formal meeting for staff to proceed with the 1997 legislative program as follows: (1) Repeal of the exemption in G.S. 160A-458.3 for municipalities in Buncombe County, thus giving Asheville the same opportunities for downtown development as other North Carolina cities have; (2) Authorization for an increase in the annual motor vehicle tax from $5.00 to $15.00; and (3) Amendment of G.S. 136-27.1 to provide for payment of relocation costs of water and sewer lines belonging to water or sewer systems organized pursuant to G.S. 160A-462 (local modification for Buncombe and Henderson counties).

EMPOWERMENT ZONE/ENTERPRISE COMMUNITY PROGRAM (EZ/EC)

Ms. Julia Cogburn, Planning & Development Director, gave a brief overview of the strategic planning process. She said that during March - June 1994 the City conducted an extensive community involvement process in development of a strategic plan which served as the basis for a grant application to HUD through the Empowerment Zone - Enterprise Community program. Although the grant application was not approved, some of the projects in the Strategic Plan have been implemented.

Mr. Randall Barnett, Rehab Loan Specialist, then reviewed the current status of 35 projects that were in the strategic plan.

Mr. Marvin Vierra, Community Development Director, briefed Council on the future of the EZ/EC program noting that HUD has recently initiated new grant programs for communities that submitted applications through the EZ/EC program.

Mayor Martin, on behalf of City Council, commended staff for their effort in pulling together this program with the community.

Ms. Leni Sitnick stated that it was her understanding that President Clinton said that not only would he be putting more money in the EZ/EC efforts, but they would be concentrating on smaller communities. She offered her assistance in trying to request those funds.

RESOLUTION NO. 96-212 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A FEMA HAZARD MITIGATION GRANT AND TO ENTER INTO AN AGREEMENT WITH THE STATE OF N.C. DIVISION OF EMERGENCY MANAGEMENT AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY FOR THAT GRANT

Ms. Debbie Ivester, Superintendent of Administration in the Parks & Recreation Department funds are available through the State of North Carolina Division of Emergency Management and the Federal Emergency Management Agency (FEMA) in the North Carolina Hazard Mitigation Grant Program. The grant provides matching funds (75% Federal, 25% local) for projects that reduce or eliminate the risk to human life and property damage from natural hazards such as flood, wind, snow, and seismic. The City of Asheville through the Parks and Recreation and Building Safety Departments wish to apply for grant funds for projects in the following priority: 1) acquire property for the French Broad River Greenway; 2) implement mitigation through training of design professionals and builders; and 3) improve seismic performance of essential emergency services buildings.

Ms. Ivester briefed Council on the project for the French Broad River Greenway. She said the proposed property is located on Riverside Drive, just south of the RiverLink Bridge, and north of the Smoky Park Bridge This area represents a section of a major greenway corridor being developed along the French Broad and Swannanoa Rivers. Phase I was

completed in 1994 with the completion of French Broad River Park. Phase II of the trail at French Broad River Park was just completed in October 1996. Phase III, Amboy Road Park and Greenway is in the early stage of development and will provide a riverfront park featuring a boat launch, fishing area, and support areas for growing activities in the region. The FEMA Hazard Mitigation Grant Program represents an opportunity to acquire and relocate property within the greenway corridor. The property will be dedicated for open space and appropriate land use. The project represents a piece in the French Broad River Master Plan and the Asheville Parks and Recreation Department 2010 Plan, and the successful public/private partners to make the plan a reality. The overall project has a long history of collaboration with RiverLink and the many partners its efforts have brought to the table.

Total project cost is approximately $3,450,000. Funds will be matched by 25% of the cost by labor, equipment, and project supervision.

Ms. Julie Combs, Plan Reviewer, briefed Council on the Training Program portion of the grant request. She said that the training will implement a professional development course and materials for design of major hazards emphasizing current building code requirements. Hazards include seismic, flood, wind, and snow. The training will be available to architects, engineers, code officials, and builders throughout a five state region. To ensure long range dissemination of information, a pilot course will be developed with the local technical community college and engineering curriculums.

Total project cost is $50,000. Funds will be matched by 25% of the cost by A-B Technical Community College in facilities, staff, and project management.

Ms. Combs then reviewed the Seismic Performance of Emergency Services Buildings portion of the grant request. She said that although Asheville has not experienced seismic activity since 1928, it is important to recall earthquakes in this area can result in the 5 to 8 magnitude range. The Municipal Building and St. Joseph/Mission Hospital must function with immediate occupancy following a seismic incident. Following an upcoming engineering assessment of these buildings, seismic retrofitting is to be implemented. In addition, A-B Technical Community College engineering students will perform Rapid Visual Assessment of Seismic Hazard per the FEMA documents of other buildings throughout the city.

Total cost of Municipal Building retrofitting is approximately $5 million. Matching funds may come from the already proposed moneys for the Municipal Building renovations, $1.25 million of the $9 million budgeted. Cost of hospital complex retrofitting is estimated to be $10 to $17 million. Matching funds will come from St. Joseph/Mission Hospital.

The Parks and Recreation and Building Safety Departments ask the City Council to review and concur with the priority of projects, and recommend the City Manager to apply for and enter into this agreement, subject to the City Attorney's review.

Mayor Martin said that because this application needs to be filed prior to December 15, 1996, and City Council will not be holding their formal meeting until December 17, 1996, a motion is necessary authorizing the resolution today. He said that members of Council have been previously furnished with a copy of this resolution and it would not be read.

Councilman Worley moved to authorize the City Manager to apply for and enter into an agreement with the State of N.C. Division of Emergency Management and FEMA for a grant to (1) acquire property on the French Broad River for the French Broad River Greenway; (2) develop and implement a hazard training mitigation program; and (3) to improve seismic performance of essential emergency services buildings. Said agreement is subject to the City Attorney's approval. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 354

PINNACLES AT PARK AVENUE

Mr. Tony Lewis, Technical Services Director for the Engineering Department, updated Council on the erosion control and stormwater concerns at the Pinnacles at Park Avenue.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:29 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - December 17, 1996 - 500 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and Deputy City Clerk Phyllis Corns

Absent: Councilman James J. Skalski and City Clerk Magdalen Burleson

INVOCATION

Councilman Sellers gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 96-211 - RESOLUTION IN MEMORY OF ROY M. TRANTHAM

Mayor Martin read the resolution in memory of Roy M. Trantham. Mayor Martin read the resolution in memory of Mayor Roy M. Trantham who served as the City of Asheville's Mayor from December 1978 until December 1983. He presented the resolution to Mayor Trantham's son, Roy Jr.

Councilman Worley moved for the adoption of Resolution No. 96-211. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 355

II. CONSENT:

Mr. Ralph Bishop asked that Item A be removed from the Resolutions & Motions Consent Agenda for discussion.

Councilman Sellers asked that Item C be removed from the Resolutions & Motions Consent Agenda for discussion.

Mr. Rick Tisdale asked that Item B be removed from the Resolutions & Motions Consent Agenda for discussion.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 26, 1996 AND THE WORKSESSION HELD ON DECEMBER 3, 1996

This item was removed from the Consent Agenda for further discussion.

B. RESOLUTION AWARDING BIDS FOR FLEET VEHICLES

This item was removed from the Consent Agenda for further discussion.

C. RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE THE TERMS OF A CONTRACT FOR ACCEPTANCE OF THE STREETS LOCATED IN THE HILLS OF BEAVERDAM PROJECT AS CITY-MAINTAINED STREETS

This item was removed from the Consent Agenda for further discussion.

D. **RESOLUTION NO. 96-213 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE N.C. LEAGUE OF MUNICIPALITIES FOR EVALUATION OF FINANCE DEPARTMENT OPERATIONS AND THE DEVELOPMENT REVIEW AND PERMITTING PROCESS**

RESOLUTION BOOK NO. 23 - PAGE 356

E. **MOTION DIRECTING THE CITY MANAGER AND CITY ATTORNEY TO PROCEED WITH THE 1997 LEGISLATIVE PROGRAM**

F. **RESOLUTION NO. 96-214 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 2B TO DR. ALBERT B. ANDERSON**

Summary: Disposal Parcel 2B is a CS Commercial Service lot located approximately 200 feet south of the intersection of Asheland and Hilliard Avenues comprising 29,344 square feet. The lot is generally rectangular in shape and mostly flat at street level to a depth of about 150 feet then dropping sharply about 15 feet with the rear of the lot being on grade with South Grove Street. The bid from Dr. Albert Bernard Anderson includes the proposal to construct a single story medical office building containing 4,300 square feet on grade with Asheland Avenue. The development proposal includes paved parking and landscaping. The building will be occupied by Dr. Anderson's opthamological practice.

The bid of Dr. Anderson, in the amount of $117,400 is not less than the established minimum price of $117,400. The upset bid process was followed and an upset bid was received by Oak Valley Associates in the amount of $123,320. The upset bid process was again followed and an upset bid was received by Dr. Albert Anderson in the amount of $129,536. The upset bid process was again followed and an upset bid was received by Oak Valley Associates in the amount of $136,100. The upset bid process was again followed and an upset bid was received by Dr. Albert Anderson in the amount of $142,955. The upset bid process was again followed and an upset bid was received by Oak Valley Associates in the amount of $150,200. The upset bid process was again followed and an upset bid was received by Dr. Albert Anderson in the amount of $157,760. The upset bid process was again followed and an upset bid was received by Oak Valley Associates in the amount of $165,710. The upset bid process was again followed and an upset bid was received by Dr. Albert Anderson in the amount of $175,045.50. The upset bid process was again followed and there was not another upset bid received.

RESOLUTION BOOK NO. 23 - PAGE 357

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCE:

A. **ORDINANCE NO. 2342 - BUDGET AMENDMENT RELATIVE TO N.C. LEAGUE OF MUNICIPALITIES STUDIES FOR EVALUATION OF FINANCE DEPARTMENT OPERATIONS AND THE DEVELOPMENT REVIEW AND PERMITTING PROCESS**

Summary: This budget amendment, in the amount of $30,000, is to appropriate funds for the N.C. League of Municipalities' study of the

Finance Department Operations and the Development Review and Permitting Process.

ORDINANCE BOOK NO. 16 - PAGE 140

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2342. This motion was seconded by Councilman Sellers.

On a roll call vote of 6-0, the Ordinance Consent Agenda passed on its first and final reading.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION

APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 26, 1996 AND THE WORKSESSION HELD ON DECEMBER 3, 1996

Upon inquiry of Mr. Ralph Bishop, City Attorney Oast said that it was his opinion that the minutes do more than is required by State statute.

When Mr. Bishop asked if Council will ask to "change the wording of 160A-72", City Attorney Oast said that no amendment was part of our legislative package.

Vice-Mayor Field moved for the adoption of the minutes of the regular meeting held on November 26, 1996, and the worksession held on December 3, 1996. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION NO. 96-215 - RESOLUTION AWARDING BIDS FOR FLEET VEHICLES

Summary: Recommendation for award of Bid Request No. 461-97, to purchase 29 assorted fleet vehicles.

Pursuant to G.S. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were received to furnish the Police, Fire, Parks, Engineering, Building Safety and Public Works Departments with vehicles as described in the bid summary attached hereto as Exhibit "A" as bid items 1 through 13. Four bids were received. Bids have been reviewed for technical compliance to specifications by the Fleet Management Division and their concurrence received in the following recommendations.

Funds for the purchase of these vehicles are to be from the requisitioning departments capital equipment appropriations for FY 96/97. All vehicles are budgeted as replacement vehicles.

Subject to Council's approval, it is recommended that awards be made to the low bidder of each item as follows:

Bid items 1, 3, 5, 6, 7, 8, 9, and 11 award to Earl Tindol Ford, Gastonia, N.C., in the amount of $376,389 for the purchase of vehicles described in the bid summary attached hereto as Exhibit "A" for these items.

Bid items 2, 4, and 10 award to Parkway Chevrolet, Asheville, N.C., in the amount of $111,615 for the purchase of vehicles described in the bid summary attached hereto as Exhibit "A" for these items.

Bid items 12 and 13 award to Matthews Ford, Asheville, N.C., in the amount of $100,975 for the purchase of vehicles described in the bid summary attached hereto as Exhibit "A" for these items.

Grand total of all awards as recommended $588,979.00.

Mr. Rick Tisdale, General Sales Manager with Matthews Ford, said that he felt the bid was held according to statutes, however, he said that Matthews Ford has been in Asheville since 1938 doing business and paying taxes. Last year they paid over $32,000 in taxes. Earl Tindol Ford, Ford dealer from Gastonia and lowest responsible bidder on the police vehicles, won the state bid and by winning the state bid, they have a $200 advantage per vehicle over any other Ford dealer. He felt that because Matthews Ford does pay City taxes, they should be given more consideration. He said that vehicles awarded are emergency vehicles and are therefore under warranty. If Matthews Ford sells a vehicle, their vehicle is given priority versus a vehicle from another dealer. He said that if the vehicles come from another dealer, Matthews Ford will service them in the most responsive manner as possible, keeping in mind that their vehicles will be given priority.

Upon inquiry of Mayor Martin, City Attorney Oast said that the City is required to take the lowest responsible bid. He felt that Council's only option to do otherwise is to reject all bids and re-bid the contract.

Mr. Tisdale said that even if the contract is re-bid, Earl Tindol Ford will still have a $200 advantage over them. He did feel that Council should support local business and perhaps next time, change the specifications to assure that businesses in Asheville have some advantage over any dealerships that are not in the City of Asheville.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 96-215. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 358

RESOLUTION NO. 96-216 - RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE THE TERMS OF A CONTRACT FOR ACCEPTANCE OF THE STREETS LOCATED IN THE HILLS OF BEAVERDAM PROJECT AS CITY-MAINTAINED STREETS

Summary: Staff is requesting Council consideration regarding the petition for acceptance of roads for maintenance by the City within the Hills of Beaverdam Subdivision.

The Engineering Department along with the Public Works Department over the course of the last two years has been working with the Hills of Beaverdam Homeowners Association ("Homeowners Association") to facilitate the acceptance of streets within the existing subdivision. The Homeowners Association has completed the appropriate street acceptance petition and collected the necessary revenues to complete the rehabilitation of the streets prior to city acceptance.

The streets were not constructed to City street standards. Therefore, the streets must be rehabilitated prior to acceptance for maintenance by the City. Rehabilitation of these streets consists of providing road construction rehabilitation of 1.1 mile of streets which serve 45 residential lots. The existing streets have varying slopes of 5% to 15%. The proposed cost for improvements of the homeowner

participation is estimated $137,000. However, the City would contribute toward the project by contributing the necessary labor and equipment for the rehabilitation.

The Engineering Department has completed construction plans for the necessary street repairs and construction. The Street Division will provide construction repairs thereby the city contributing associated labor and equipment as public/private participation on the project. The proposed project schedule is to begin project construction in the spring of 1997.

The City Attorney's Office will prepare required contract documents for the acceptance and approval by the City Manager's office. The City Manager will enter into the agreement with the Homeowners Association for collection of funds needed to purchase materials and supplies to complete the necessary scope of work. The agreement will stipulate that any residual funds will be reimbursed or any additional funds must be provided by the Homeowners Association. As part of the acceptance process, all necessary rights-of-way and easements must be transferred to the City of Asheville for acceptance by City Council.

Staff requests approval of the resolution authorizing the City Manager to negotiate the terms of a contract for acceptance of the streets located in the Hills of Beaverdam project (Skyview Drive, Skyview Circle, Sunset Trail and Crescent Lane) as City-maintained streets.

Mr. Harold Garland, 7 Sycamore Street, did not oppose the City taking the streets over, but spoke in opposition of the City taking over the streets in their present condition. He said the streets, in their present condition, are draining water on his property. He said his driveway continues to be washed away and has recently spent $1,150 to avoid the water going into his basement. He asked that, during the negotiation period, they try to eliminate this drainage problem. Public Works Director Mark Combs said that they are aware of the problem.

Mr. John Jackson, homeowner in the Hills of Beaverdam, said that the Homeowners Association has been working with City officials for over three years and since then, there has been a change-over of City officials and in the Homeowners Association. Since that time, the petition to take over the streets ended up being no longer valid. In October of 1995, the Homeowners Association met with Technical Services Director of the Engineering Department Tony Lewis who advised them that they needed a new petition to ask that the roads be taken over and that the City would need the money upfront. He told them that engineering could be started in as early as 30 days. Based on that, the Homeowners Association felt that it was no longer wise to put money into the road repairs based on the timeline outlined by Mr. Lewis and they felt they needed to put the money into a fund to pay for their share of the construction. On January 1, 1996, the funds were in escrow. On July 26, 1996, they received a letter from Mr. Lewis stating that repairs would start October 1, 1996. He again stressed that the Homeowners Association prompted got the petition together and the funds necessary in the time requested by the City. On October 25, 1996, a letter was sent to Mr. Combs requesting a meeting because this was not being handled in a timely manner. The engineering that was supposed to have taken place at the end of 1995 and was now going to take place in September of 1996. Mr. Lewis said that the full construction would not be in 1996, but some of the basic foundation work would be done and the finished paving would be completed in the spring of 1997. In talking with other City officials at a later date, he was told that construction could not be done now because of the weather. Mr. Jackson then asked

that some emergency pothole patching be done and Mr. Combs advised him that they could not do that.

Mr. Combs said that he felt the developer did a very poor job in construction the roads and he didn't feel it was the City's responsibility to take care of the roads, which are right now private. He did note that there was still several issues that need to be resolved prior to the City taking over the maintenance.

Mr. Jackson felt that there should be an exception made. He said the area was annexed approximately six years ago against the wishes of the property owners. He felt the City has had the tax revenue from their properties and they have worked promptly on their side to meet all the City's requirements.

Mayor Martin asked that City staff move as quickly as possible in these negotiations.

Upon inquiry of Vice-Mayor Field, Mr. Combs said that the repairs to the road would be major and are not so much potholes, but the total road failure.

Upon inquiry of Councilman Worley, Mr. Jackson said that the engineering actually was finished in October and the City said that they still had time to do some construction on the worst spots and then do the final paving before the year's end. Then in November the City said they didn't have time for any construction but they could just patch the potholes, which they are asking for. He said this is not a financial matter, it is a matter that they have met with City's guidelines and the City has not met their timeline. He said the Homeowners Association was ready to contract for emergency patching and by the time he talked to Mr. Combs who said the City could not do anything at all, the contractor said he couldn't do it because the asphalt factories were shut down. He understood the need for rules and regulations, but he felt this should be an exception.

Councilman Worley was concerned that there was some indication that the City might be able to do something on a temporary basis. The Homeowners Association relied on that indication and now the City will not do anything.

Mr. Jackson said the most serious concern is Skyview Drive, which is approximately 1/4 mile long and very steep. He said the potholes got bad in 1996 but were not maintained in anticipation of the City's help. He admitted to road failure but stated there are simply potholes in the middle of the road too. He said there are two senior citizens out there actually patching the potholes.

City Manager Westbrook said that the City will work with the Homeowners Association as quickly as possible to expedite this. However, in briefly discussing this with the City Attorney, he felt there are some legal issues if we try to maintain a private road before it's properly taken over. He understood that this project will cost the homeowners and the City approximately $250,000-$350,000 jointly to fix the road and the City wants to make sure it's fixed right the first time. If the agreement can be worked out and signed quickly, he felt the City could go out and make some repairs.

Mr. Combs clarified a question raised by Mr. Johnny Lloyd regarding the City's annexation procedures.

A senior citizen said that he was tired of trying to keep the road fixed due to the poor construction of the roads in the Hills of Beaverdam.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 96-216. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 364

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE RELATIVE TO CONDITIONAL USE REQUIREMENTS FOR NURSERIES AND KINDERGARTENS

ORDINANCE NO. 2343 - ORDINANCE AMENDING THE ZONING ORDINANCE RELATIVE TO CONDITIONAL USE REQUIREMENTS FOR NURSERIES AND KINDERGARTENS

Mayor Martin opened the public hearing at 5:42 p.m.

Deputy City Clerk Corns presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning & Development Director, said that this ordinance is proposed in order to delete reference to the City's standard buffering provisions as a conditional use requirement for nurseries and kindergartens.

Nurseries and kindergartens are currently listed as conditional uses in the R-3 (medium density residential), R-4 (high density residential), R-5 (residential), and the CS (Commercial Service) use districts of Appendix A of the Code of Ordinances of the City of Asheville. Included in the enumerated conditions for these uses are requirements that adequate buffering, as outlined in Sec. 30-3-14, be provided and that fencing be provided. Both of these requirements are redundant as buffering is required by City ordinance and fencing by State regulation. The ordinance amendment before Council proposes that these regulations be deleted from the conditional use stipulations because: (a) they are redundant; and (b) the buffering requirement does not allow for any variance or flexibility in meeting buffering needs for such an establishment.

The Planning and Zoning Commission voted 7-0 at their November 6, 1996, meeting to recommend the adoption of this wording amendment.

Mayor Martin closed the public hearing at 5:45 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2343. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2343 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 142

B. PUBLIC HEARING ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL FOR BOSTON WAY ENHANCEMENT PROJECT

RESOLUTION NO. 96-217 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE BOSTON WAY PROJECT

Mayor Martin opened the public hearing at 5:46 p.m.

Deputy City Clerk Corns presented the notice to the public setting the time and date of the public hearing.

Ms. Suzanne Molloy, Assistant Director of Public Works, said that the Public Works Department has assessed the total costs for the Boston Way enhancement project, completed in May 1995, and prepared a preliminary assessment roll.

In 1992 the Public Works Department was working on some bond improvements throughout the City, and at that time there were people on Boston Way (from its intersection with All Souls Crescent at its eastern end and ending at its intersection with All Souls Crescent at its western end) that petitioned the City to add enhancements to Contract 13E, as designed by Vaughn and Melton, to construct, pave, widen, install curbs and gutters and otherwise build and improve Boston Way. There was a majority of the petitioners who wanted the City to improve the road with things such as the installation of brick sidewalks, colored concrete, and other features. The petition was taken to City Council (which was signed by over 51% of the property owners at that time) to levy a special assessment against them to do the enhancement work if they were to be assessed for 50% of the costs. In 1993 Council granted approval to go forward with the work and in May of 1995, the work was completed. Therefore, property owners on Boston Way east and west of Hendersonville Road should be assessed for 50% of the costs.

In September 1996, the Public Works Department closed out Contract 13E in its entirety, accepted work completed, and determined final costs. The cost of enhancements to the Boston Way project is $126,303.91 which amount includes the costs of labor, materials, equipment, and the costs of publication of notices and resolution. The assessed values going to the property owners on Boston Way is $63,151.95.

A preliminary assessment role for benefited property owners has been prepared. The amount assessed to each benefited property owner is based upon 50% of the enhancement costs at an equal rate per foot of frontage.

She noted that during the Boston Way project itself, after the two preliminary petitions had been brought in front of Council and during construction, the engineering firm was approached by three property owners who were not on the original assessment, requesting the improvement work go on the west side of Hendersonville Road also. The City did put in those improvements and the special assessment includes the assessment upon those property owners as well.

The Public Works Department staff recommends the adoption of the resolution confirming the preliminary assessments.

Ms. Molloy said that she had received a telephone call from Mrs. Roy Trantham who expressed her concern over her assessment as they were not one of the original property owners who had signed the petition. She felt that they should not be assessed.

Upon inquiry of Mayor Martin, Ms. Molloy explained the two options of payment for all the property owners. They can either pay it within 30 days after the Tax Collector has published notice, or pay the assessment in five annual installments which shall bear the interest rate of 8% per annum, with the first installment including interest to become due and payable on the date when property taxes are next due and payable following confirmation of the assessment roll, with subsequent installments and interest due and payable on the same date in each successive year until the assessment is paid in full.

City Attorney Oast said that even though the preliminary resolution which called for a public hearing allowed a payment option of a 10 year installment plan, the resolution directing the Boston Way Project be undertaken is controlling, which allows for five annual installments as outlined above by Ms. Molloy.

Upon inquiry of Councilman Hay, Ms. Molloy said that the City would not have done any enhancements had the majority of the property owners not requested them.

Mr. Roy Trantham said that his family has property affected by these enhancements. He pointed out that they had no knowledge of this until approximately a week ago. He felt it was unreasonable to impose an assessment on the other 49% without real knowledge of whether they can afford it or what the ramifications to them might be. He questioned if it was right to assess people under those circumstances who are already heavily taxed. He also questioned whether it is reasonable to expect people to pay for their own roads and sidewalks in a City that has taken the responsibility of providing that as a basic service of the City. He felt the City should manage its affairs in such a way that it can afford to fix its roads.

Ms. Molloy noted that with the Boston Way Project and the Kitchen Place Project there was approximately $555,761 spent overall on both projects. There is only $100-115,000 being assessment on the two streets, around $300,000 out of bond money, and the rest came out of general funds for the City. She also said that there have been two public hearings and each time the property owners were notified.

Vice-Mayor Field remembered when the project first was brought before Council, there was very positive input from many property owners requesting the enhancements be done.

Councilman Worley said that the work has been done and the costs have been incurred. He felt that Council has no choice but to go forward with the assessments.

City Attorney Oast agreed with Councilman Worley by stating that Council does not have the option of forgiving any of the liens that result from this. Council may only adjust the amounts if they find that the improvements have not been done. He once again outlined the terms of payment allowed by Council.

Mayor Martin closed the public hearing at 5:59 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Cloninger moved for the adoption of Resolution No. 96-217 at 5:59 p.m. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 365

C. **PUBLIC HEARING ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL FOR KITCHEN PLACE ENHANCEMENT PROJECT**

RESOLUTION NO. 96-218 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE KITCHEN PLACE PROJECT

Mayor Martin opened the public hearing at 6:02 p.m.

Deputy City Clerk Corns presented the notice to the public setting the time and date of the public hearing.

Ms. Suzanne Molloy, Assistant Director of Public Works, said that the Public Works Department has assessed the total costs for the Kitchen Place enhancement project, completed in May 1995, and prepared a preliminary assessment roll.

The property owners residing on Kitchen Place petitioned the City of Asheville to add enhancements to Contract 13E (also known as Contract 10), as designed by Vaughn and Melton to construct, pave, widen, install curbs and gutters and otherwise build and improve Kitchen Place. Enhancements to the original project included the installation of brick sidewalks, colored concrete, and other features. The property owners agreed to be assessed for 50% of the costs of these enhancements.

In May 1995, the Kitchen Place project was completed. In September 1996, the Public Works Department closed out Contract 13E in its entirety, accepted work completed, and determined final costs. The cost of enhancements to the Kitchen Place project is $106,299.97 which amount includes the costs of labor, materials, equipment, and the costs of publication of notices and resolution. The assessed value on the property owners if $53,149.98.

A preliminary assessment role for benefited property owners has been prepared. The amount assessed to each benefited property owner is based upon 50% of the enhancement costs at an equal rate per foot of frontage.

The Public Works Department staff recommends the adoption of the resolution confirming the preliminary assessments.

Mayor Martin closed the public hearing at 6:04 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-218 at 6:04 p.m. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 266

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. **RESOLUTION NO. 96-219 - RESOLUTION AUTHORIZING THE NEGOTIATION OF THE RENEWAL OF A LEASE OF PROPERTY AT THE CORNER OF BILTMORE AVENUE AND ASTON STREET FOR USE AS A PARKING LOT**

Mr. Bill Schaefer, Finance Director, said that this resolution would authorize the City Manager to negotiate and enter into the renewal of the lease of property at the corner of Biltmore Avenue and Aston Street for continued use as a parking lot.

The City has leased the property at the corner of Biltmore Avenue and Aston Street since 1962. The property contains 98 parking spaces (43 monthly rental and 55 meters). The original lease provided for a rent of $600 per month and that the City pay for maintenance of the property and the property's ad valorem taxes ($1,034.35 last year). The lease specified an expiration date of September 30, 1987; however, it has continued in effect on a month-to-month basis by mutual agreement until the present.

The property owners' agent (Mr. Harold Talbert) has offered renewal of the lease at $1,500.00 per month, plus City payment of ad valorem taxes, property maintenance, and indemnity insurance. The duration of the lease is to be determined by further negotiation. This offer expires on December 19, 1996.

The City is currently in the process of issuing an RFP for a parking study, the results of which are not expected to be available until the Summer of 1997. Renewal of the lease will enable the City to continue to provide public parking in the rapidly expanding area south of Pack Square pending implementation of any recommendations of the study. Under the present rate structure, current projections are that revenues from the lot (approximately $20,000 per year) will cover direct expenses of approximately $19,000 per year (rent $18,000 plus taxes $1,000). However, the revenue will not fully cover the $8,600 apportionment, based on the number of spaces in the lot, of the overall operations/maintenance/enforcement expenses of the Parking Services function. The vast majority of the apportioned operations/maintenance/ enforcement expenses will still be incurred whether or not the lease is renewed.

The proposed resolution authorizes the City Manager to complete the negotiation of terms and execute a contract for lease of the property at the corner of Biltmore Avenue and Aston Street at a rent of $1,500.00 per month.

The Finance Department recommends approval of the resolution.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 96-219, subject to lease review and approval by the City Attorney. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 368

VI. OTHER BUSINESS:

A. REQUEST OF CECIL CASSIDY

Mr. Cecil Cassidy, owner of Smoky Tavern, asked for a loading zone sign for his business.

B. BOARD & COMMISSION ATTORNEY REPRESENTATION

Councilman Hay asked that the City Attorney review our present procedure of how attorneys are assigned to different boards and

commissions and if there is a better system to provide that legal advise.

City Attorney Oast said that he would be happy to review those procedures and report back to the Council.

City Attorney Oast said that with respect to the recent hearing by the Board of Adjustment, his office normally provides representation to that Board. But, because of the nature of that Board, sometimes the decisions it makes puts it in conflict with the City and sometimes it is necessary to engage separate counsel for them. A conflict did arise at the last minute making it necessary to have an outside an attorney present to advise the Board.

C. COMMENTS BY LORETTA YOUNG

Mr. Loretta Young asked the status of when a piece of property on Dr. Martin Luther King Jr. Drive would be put out for bid.

Mayor Martin asked the City Manager to meet with Ms. Young and advise her accordingly.

D. CLAIMS

The following claims were received by the City of Asheville during the week of November 15-27, 1996: Debra Stewart (Water), George C. Butler (Water), Martha Davis (Fire), Toby Brown (Sanitation), Susan Sinyai (Sanitation), and Fred Engel (Water).

The following claims have been received during the week of November 29-December 5, 1996: Bell South (Streets) and Thomas S. Robertson (Parks & Recreation).

The following claims have been received during the week of December 6-12, 1996: Bell South (Water), Graham McElroy (Water), John Wilkins (Streets), Ernestine Crouch (Water), Nora Murray (Streets), Teresa Surrett (Streets) and Jay Shelburne (Streets).

These claims have been referred to Asheville Claims Corporation for investigation.

E. CLOSED SESSION

At 6:16 p.m., Councilman Hay moved to go into closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body as authorized by G.S. 143-318.11 (a) (4) and to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body as authorized by G.S. 143-318.11 (a) (3). The parties to the lawsuit to be discussed are City of Asheville and Taylor & Murphy Construction Company. This motion was seconded by Councilman Sellers and carried unanimously.

At 6:17 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Vice-Mayor Field and carried unanimously.

F. COMMENTS BY LAUREL EIDE

Ms. Laurel Eide updated City Council on her efforts regarding the possible rezoning of portions of two pieces of property located west of Hendersonville Road.

Councilman Cloninger said that whatever agreements are reached by the parties involved will be reviewed by the City Attorney's Office and Planning & Development Department for compliance.

G. CLOSED SESSION

At 6:26 p.m., Councilman Hay again moved to go into closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body as authorized by G.S. 143-318.11 (a) (4) and to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body as authorized by G.S. 143-318.11 (a) (3). The parties to the lawsuit to be discussed are City of Asheville and Taylor & Murphy Construction Company. This motion was seconded by Councilman Worley and carried unanimously.

At 7:05 p.m., Councilman Hay moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:05 p.m.

Magdalen Bourleon
CITY CLERK

MAYOR

CITY OF ASHEVILLE
PURCHASING DIVISION

BID SUMMARY
BID REQUEST NO. 461-97

BID OPENED: TUESDAY, NOVEMBER 26, 1996 2:00 P.M.

MOTOR VEHICLES FOR CITY OF ASHEVILLE

ITEM NO.		EARL TINDOL FORD GASTONIA, NC	MATTHEWS FORD ASHEVILLE, NC	PARKWAY CHEVROLET ASHEVILLE, NC	CAROLINA TRUCK AND BODY ASHEVILLE, NC
1. 12) Police Vehicles for Patrol Use	MAKE:	1997 Ford	1997 Ford		
	MODEL:	Crown Victoria	Crown Victoria		
	UNIT PRICE:	$18,693.00	$18,971.00	No Bid	No Bid
	AMOUNT	$224,316.00	$227,652.00		
2. 3) Police Four Wheel Drive Utility Vehicles for Police Dept.	MAKE:	1997 Ford	1997 Ford	1997 Chevrolet Blazer	
	MODEL:	Explorer	Explorer	CT10506	
	UNIT PRICE:	$23,250.00	$23,708.00	$22,111.00	No Bid
	AMOUNT:	$69,750.00	$71,124.00	$66,333.00	
3. 2) Full Size Sedan with Police Package for Police Dept.	MAKE:	1997 Ford	1997 Ford		
	MODEL	Crown Victoria	Crown Victoria		
	UNIT PRICE:	$19,074.00	$19,203.00	No Bid	No Bid
	AMOUNT:	$38,148.00	$38,406.00		
4. 1) Four Wheel Drive 4-Door Utility Type Passenger Vehicle for Fire Dept.	MAKE:			1997 Chevrolet Suburban	
	MODEL:			CK20906	
	AMOUNT:	No Bid	No Bid	$31,984.00	No Bid
5. 1) Mini Passenger Van for Fire Dept.	MAKE:	1997 Ford	1997 Ford	1997 Chevrolet	
	MODEL:	Aerostar	Aerostar	CM11006	
	AMOUNT:	$15,453.00	$15,642.00	$18,519.00	No Bid

EXHIBIT "A"

BID SUMMARY
BID REQUEST NO. 461-97
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MOTOR VEHICLES FOR CITY OF ASHEVILLE

ITEM NO.		EARL TINDOL FORD GASTONIA, N. C.	MATTHEWS FORD ASHEVILLE, N. C.	PARKWAY CHEVROLET ASHEVILLE, N. C.	CAROLINA TRUCK AND BODY ASHEVILLE, N. C.
6. 1) Mini Cargo Van for Parks and Recreation Dept.	MAKE:	1997 Ford	1997 Ford	1997 Chevrolet	
	MODEL:	Aerostar	Acrostar	CM11005	
	AMOUNT:	$15,463.00	$15,623.00	$17,226.00	No Bid
7. 1) Mid Size 2-Wheel Drive Pickup Truck for City Engineering Dept.	MAKE:	1997 Ford	1997 Ford	1997 Chevrolet	
	MODEL:	Ranger	Ranger	CS10603	
	AMOUNT:	$12,175.00	$12,683.00	$12,845.00	No Bid
8. 1) Mid Size 2-Wheel Drive Pickup Truck for Building Safety Dept.	MAKE:	1997 Ford	1997 Ford	1997 Chevrolet	
	MODEL:	Ranger	Ranger	CS10603	
	AMOUNT:	$12,685.00	$13,406.00	$13,297.00	No Bid
9. 1) Mid Size, 4-Wheel Drive Pickup Truck for Building Safety Dept.	MAKE:	1997 Ford	1997 Ford	1997 Chevrolet	
	MODEL:	Ranger	Ranger	CT10603	
	AMOUNT:	$16,221.00	$16,662.00	$16,837.00	No Bid
10. 1) 1/2 Ton Heavy Duty 2-Wheel Drive Pickup Truck for Parks and Recreation Dept.	MAKE:	1997 Ford	1997 Ford	1997 Chevrolet	
	MODEL:	F150	F150	CC10703	
	AMOUNT:	$13,583.00	$13,919.00	$13,298.00	No Bid

BID SUMMARY
BID REQUEST NO. 461-97
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MOTOR VEHICLES FOR CITY OF ASHEVILLE

ITEM NO.		EARL TINDOL FORD GASTONIA, N. C.	MATTHEWS FORD ASHEVILLE, N. C.	PARKWAY CHEVROLET ASHEVILLE, N. C.	CAROLINA TRUCK AND BODY ASHEVILLE, N. C.
11. 2) 3/4 Heavy Duty, 4WD Cab & Chassis with Utility Body for Public Works Dept., Traffic Engineering Div.	TRUCK MAKE/MODEL: BODY MAKE/MODEL: UNIT PRICE: AMOUNT:	1997 Ford F250 Stahl 96VVS $20,964.00 $41,928.00	1997 Ford F250 Morrison S960C $21,204.00 $42,408.00	1997 Chevrolet CK20903 Reading 98ABSW $21,241.00 $42,482.00	No Bid
12. 2) 1 Ton Heavy Duty 4-Wheel Drive Cab & Chassis with Utility Body for Public Works Dept., Street Division	TRUCK MAKE/MODEL: BODY MAKE/MODEL: UNIT PRICE: AMOUNT::	1997 Ford F350 Stahl 108VVD $27,776.00 $55,552.00	1997 Ford F350 Morrison S108DC $27,431.00 $54,862.00	1997 Chevrolet CK31003 Reading 108GABDW $27,471.00 $54,942.00	No Bid
13. 1) Diesel Powered Cab & Chassis with 6 Cubic Yard Dump Body for Public Works Dept., Street Division	TRUCK MAKE/MODEL: BODY MAKE/MODEL: AMOUNT:	No Bid	1997 Ford F800 Godwin $46,113.00	No Bid	1997 GMC C7H042 Gallion $48,939.00
DELIVERY: TERMS: BID DEPOSIT:		60 to 120 Days Net 30 5% Bid Bond	30 to 90 Days Net 30 5% Official Check	60 to 120 Days Net 30 5% Bid Bond	120 Days Net 30 5% Bid Bond

The following companies did not respond: Ken Wilson Ford, Canton, NC; Woodcock Motors, Black Mountain, NC; Skyland Oldsmobile, Asheville, NC; Black Mountain Chevrolet, Black Mountain, NC; Carolina Truck Centers, Candler, NC; Meeker Lincoln Mercury, Asheville, NC; Deal Buick, Asheville, NC, Prestige Dodge Subaru, Asheville, NC; Shealy Truck Center of Piedmont, Spartanburg, SC; Fletcher Motor Company, Fletcher, NC; Cook Truck Equipment & Tools, Charlotte, NC; White GMC Trucks, Hickory, NC; West Carolina Freightliner, Hickory, NC; Egolf Motors, Hendersonville, NC; Peachtree Ford Mercury, Gaffney, SC; and Brian Easler Ford, Hendersonville, NC.

Tuesday - January 7, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Authority to Sign Temporary Construction Easement for U.S. 74 Project

Summary: The consideration of a request from State of North Carolina Department of Transportation ("NC DOT") for a temporary easement on City owned property in conjunction with the widening of US 74 Highway.

NC DOT will begin construction of US 74 highway in the spring of 1997. The project consists of widening the existing two lane highway to four lanes for approximately 4.0 miles.

The Water Resources Department has been requested by the NC DOT for a temporary construction easement on Parcel 0.65 to facilitate the project. The temporary construction easement will expire at the end of the construction improvements without need or requirement for permanent easement. This site currently is used for the location of the existing Minehole Gap Reservoir and associated water distribution main for the Fairview service area. The effected area is approximately 5,455 square feet or 0.12 acres. The construction proposed for the area consists of excavation (cut) which will extend the side slope for the roadway along this City property. The compensation to the City for the temporary easement will be $2200.00.

Staff requests approval of the resolution authorizing the Mayor to sign the temporary easement agreement.

Livingston Street Ballfield Lights

Summary: The Parks and Recreation Department is seeking authorization from City Council to purchase and install lighting at Livingston Street Ballfield.

In an effort to maintain and improve the City of Asheville's park facilities, the Parks and Recreation Department has created a long-term program to upgrade the lighting for City-owned ballfields and has budgeted $60,000 annually to pay for these improvements. The Livingston Street Ballfield is on the schedule for the current fiscal year.

The City, through the Parks and Recreation Department, has solicited informal bids for the above-stated project. This bid process was engaged in September 1996. A total of eleven advertisements for bid letters were sent out, including 5 to certified minority businesses registered with the City. Advertisement letters were also sent to the Asheville Business Development Center, the City's Minority Business Office and other similar business resource organizations. Four bid proposals were received, none of which were from certified minority businesses. The four bidders are listed below:

Firm Name and Location	Base Bid
Haynes Electric Utility Corp. Asheville, N.C.	$ 44,766
Palmer Electrical Contracting Inc. Brevard, N.C.	$ 97,320
Hayes & Lunsford Electrical Contractors Inc. Asheville, N.C.	$ 89,200
Electrics of Asheville Inc. Asheville, N.C.	$ 114,300

After review of these bid proposals and the qualification process of the bidders, it was determined that Haynes Electric Utility Corp. would be selected as the lowest qualified bidder and City staff would seek Council approval to enter into a contract to purchase and install lighting at Livingston Street Ballfield.

It was then determined by the contractor that additional improvements would need to be made over and above the scope of the original bid. These changes included switching to a more powerful system, which would require the addition of three large transformers and other miscellaneous materials and labor. The contractor submitted a proposal for a contract change order. City staff reviewed the proposed change order, and concur with Change Order #1 in the amount of $10,696.

Staff recommends that the City Manager be authorized to enter into a contract with Haynes Electric Utility Corp. for the amount of $44,766, and Contract Change Order #1 for $10,696, to purchase and install lighting at Livingston Street Ballfield.

Bell South Telecommunications Easement

Summary: Bell South has requested an easement over a portion of Disposal Parcel 52A in the East Riverside Redevelopment Project Area.

Disposal Parcel 52A is located between Asheland Avenue and Federal Street approximately 250 feet south of Hilliard Avenue. Due to its shape and topography assemblage with adjoining property is its most likely reuse.

Bell South Telecommunications, Inc. has agreed to pay $1,677.86 for an easement over a portion of Disposal Parcel 52A approximately 15' x 30' containing 419 square feet as a location for a type 80 service cabinet to serve the surrounding area. The easement would adjoin Federal Street from which it would be accessed and Bell South would plant a screen hedge along the other three sides of the property. Two trees would be planted on the Federal Street side. The easement would render the portion of land encumbered by the easement useless for any other purpose.

Disposal Parcel 52A contains 5,394 square feet and has a current Fair Reuse Value of $21,600.00. Compensation for the easement was calculated by applying the per square foot value of the whole to the area of the easement.

Approval of the resolution will authorize conveyance of the easement to Bell South for the amount of $1,677.86.

Community Development staff recommends adoption of the resolution.

Sale of Tax Foreclosure Lot on Fairfax Avenue

Summary: Certain lots within the corporate limits of the City of Asheville have previously been foreclosed upon due to the failure of the property owners to pay ad valorem taxes for the City of Asheville and the County of Buncombe. One of those lots is located on Fairfax Avenue and is identified on the Buncombe County tax maps and records as PIN 9638.17-22-1387.

The County of Buncombe has approved the sale of this lot for $450.00. The County of Buncombe, the City of Asheville and the Asheville Board of Education have previously entered into an arrangement whereby the County of Buncombe would convey certain of these tax lots on behalf of itself, the City and the School Board. A question has arisen, however, with regard to the record title to the property which may be addressed by the City of Asheville providing a non-warranty deed to the purchaser, disclaiming any other interest the City of Asheville may have in the property.

The resolution would authorize the County of Buncombe to convey this lot for the amount of $450.00 and would also authorize the Mayor to execute a non-warranty deed to convey this lot to the purchaser.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these Consent Agenda items on the next formal City Council agenda.

URBAN TRAIL COMMITTEE

Co-Chairs of the Urban Trail Committee Sara Bissette and Grace Pless updated City Council on the progress to date of the Urban Trail and, with pictures, gave a brief tour.

With the City of Asheville accepting more and more public art, Vice-Mayor Field felt the City needed a policy regarding public art. Said policy should address what type art the City will accept, maintenance, disposition, repairs, etc.

On behalf of City Council, Mayor Martin thanked Ms. Bissette and Ms. Pless and the work of the entire Committee for their efforts toward this wonderful historic walking tour.

Councilman Sellers said that he was looking forward to working with the committee when the tour gets expanded into West Asheville.

ASPHALT PLANT VIDEO

With the help of a video and pictures, Mr. Larry McDevitt, along with Mr. Ron Clark, Sales Manager of CMI; Mr. Ken Murphy, President of Taylor-Murphy Construction Company; and Mr. Bill Newman, Head of the Asphalt Division of Taylor-Murphy Construction Company, discussed the pros and cons of locating an asphalt plant in Asheville.

All gentlemen present answered various questions and comments from Council concerning the plant. Discussion surrounded noise levels, black soot, steam, traffic, EPA regulations, visual impact of the plant, need for the location of the plant to be in Asheville, smell, visual and non-visual pollutants, and opposition from residents.

Mr. Newman noted that his company will always listen to opposition and will try to work out through the concerns.

Mayor Martin thanked Mr. McDevitt and others for their presentation and appreciated their efforts toward remaining a good corporate citizen in our community.

PRESENTATION OF AUDIT REPORT

Mr. Bill Schaefer, Finance Director, introduced representatives of Crisp, Hughes & Co., L.L.P., of Asheville, N.C. They presented their findings of the audit (required by G.S. 159-34) for Fiscal Year ended June 30, 1996, which resulted in a "clean" audit opinion.

The total fund balance increased 11% from the previous year. Available (unrestricted and undesignated) fund balance represents 23% of expenditures in the General Fund. The State average for the year ended 1995 was 39% of expenditures for municipalities with populations of 60,000 - 80,000, without electrical utility funds.

When Councilman Hay asked how many cities fall within the 60,000 - 80,000 range, Mr. Ed Cody, Engagement Partner, said that he did not readily have that information but it would be included in future reports.

EDGEWOOD ROAD TRAFFIC STUDY

Mr. James Cheeks, Traffic Engineer, updated City Council on the Edgewood Road traffic study. He said that the City's Traffic Engineer and Asheville Police Department personnel have performed the necessary follow-up traffic analyses, speed enforcement, data collection, and road checks associated with the concerns raised about excessive speeding and the increase in vehicular traffic along Edgewood Road near the UNC-A campus.

On June 25, 1996, Resolution No. 96-105 (A Resolution Requesting the Public Works Department to Install Additional Traffic Control Devices and Measures along Edgewood Road Between Merrimon Avenue and the UNC-A Campus) was passed by the Asheville City Council. Based upon this resolution the following devices were installed or measures were instituted to increase safety along Edgewood Road:

- Edgewood Road and Darcy Lane were changed to a three-way stop intersection with new advance warning signage and appropriate pavement marking (crosswalks and stop bars). Foliage was removed from the intersection to increase sight distance.
- Edgewood Road and Hyannis Drive were changed to a three-way stop intersection with new advance warning signage and appropriate pavement marking (crosswalks and stop bars). Tree limbs and foliage were removed from the intersection to increase sight distance.
- Edgewood Road and Barnard Avenue were updated with new stop bars and larger stop signs. Foliage was removed from edge of roadway to increase lane width.
- Edgewood Road and Chatham Road-Trees were cut and limbs removed to increase sight distance. Advance warning signs were installed.
- "No Parking" signs were installed at appropriate locations to increase visibility at affected intersections.

Asheville Police Department S.T.E.P. Unit distributed 1000 informational flyers to motorists using Edgewood Road addressing the concerns of residents of the Edgewood Road area. Approximately 2000

- copies were also taken to UNC-A for distribution to students at the start of the new 1996 Fall Semester.

- The Asheville Police Department S.T.E.P. Unit has also:

  *Conducted 35 on-site visits
  *Expended 50.25 total man-hours
  *Conducted 5 check-points
  *Held 24 Multiple Unit Operations

- UNC-A has provided a classification listing of total parking decals issued for the 1996 Fall Semester. 5,641 parking decals were issued during this period.

Based upon the above-mentioned actions, the Traffic Engineering Division has continued to monitor the traffic safety issues along Edgewood Road since the installation of these traffic control measures. The following data has been compiled for this purpose:

Speed Studies:

Edgewood Road: Four separate speed studies were conducted along Edgewood Road between 7/17/96 and 12/10/96 as per the Manual on Uniform Traffic Control Devices (MUTCD) and the North Carolina Supplement. The current posted speed limit along Edgewood Road is 25 MPH. The speed studies indicate that the 85th percentile speed limit is 28-33 MPH, the pace speed range is 21-35 MPH, and the median speed is 26 MPH. The 85th percentile speed is the speed at or below which 85 percent of the vehicles are moving. This speed is reviewed in relationship to the median speed and pace speed range. The pace speed range is the range of speeds at which the largest concentration of motorists drive. These speeds were all reviewed to address the speeding problems along Edgewood Road.

W. T. Weaver Boulevard: Three (3) separate speed studies were conducted along W. T. Weaver Boulevard between 7/17/96 and 12/10/96 as per the Manual on Uniform Traffic Control Devices (MUTCD) and the North Carolina Supplement. The current posted speed limit is 35 MPH. The speed studies indicate that the 85th percentile speed limit is 38-43 MPH, the pace speed range is 31-40 MPH, and the median speed range is 33-38 MPH.

Traffic Counts:

Edgewood Road: Traffic counts were conducted at various locations along Edgewood Road during 1996. The count data indicates that during early 1996 the Average Daily Traffic (ADT) along Edgewood Road was approximately 2,571 vehicles. Traffic count data compiled after the installation of the traffic control measures reveal that the ADT has dropped to approximately 2,205 vehicles. This represents a 14% decrease in traffic along Edgewood Road.

W. T. Weaver Boulevard: Traffic counts were conducted along W. T. Weaver Boulevard over the last 3 years. The 1993 ADT was 5,038 vehicles. The 1996 ADT is 8,280 vehicles. There has been a 39% increase during this period. Since the installation of the traffic control measures along Edgewood Road, traffic volumes have increased along W. T. Weaver Boulevard. Therefore, it is evident that motorists who once used Edgewood Road have begun to utilize W. T. Weaver Boulevard, a more direct route to UNC-A.

Edgewood Road and Darcy Lane: Traffic counts were conducted at this intersection after the installation of the traffic control measures. During a typical peak hour period approximately 43% of all vehicles at this intersection came to a complete stop, 54% of all vehicles performed "rolling" stops, and 3% of all vehicles ran the stop sign. After the new measures were in place for approximately 3 months 83% came to a complete stop, 16 % rolled through the intersection and 1% ran the stop signs.

Edgewood Road and Hyannis Drive: Traffic counts were conducted at this intersection after the installation of the traffic control measures. During a typical peak hour period approximately 41% of all vehicles at this intersection came to a complete stop, 58% of all vehicles performed "rolling stops", and 1% of all vehicles ran the stop sign. After the new measures were in place for approximately 3 months, 81% came to a complete stop, 14% rolled through the intersection and 3% ran the stop signs.

Edgewood Road and Barnard Avenue: No major traffic control devices were installed at this location except for larger stop signs. However, traffic counts were conducted after the installation of improvements at all adjacent intersections. During a typical peak hour period approximately 23% of all vehicles at this intersection came to a complete stop, 75% of all vehicles performed "rolling stops" and 2% of all vehicles ran the stop sign. This data indicates that a pattern of total disregard for the regulatory stop signs that exist along Edgewood Road both before and after the new traffic control measures were installed. The Asheville Police Department has issued a total of 32 citations-5 speeding citations, 21 stop sign citations and 6 other citations, as well as 23 warnings, 4 speed display board setups and 1 narcotics arrest. City staff will continue to monitor this area for additional traffic control measures to advise motorists of these stop conditions.

Accident Data:

Accident data has been reviewed and analyzed from 7/8/96 through 11/26/96. No accidents have occurred as per data submitted from the Asheville Police Department at the intersection of Edgewood Road and Darcy Lane and Edgewood Road and Hyannis Drive since the installation of traffic safety measures along Edgewood Road. However, two accidents have occurred at the intersection of Edgewood Road and Barnard Avenue and a citizen has reported that several accidents have been caused by the installation of the new traffic control devices. We will continue to monitor this area for additional traffic control measures. On the other hand, there have been six (6) accidents at or near the intersection of W. T. Weaver Boulevard and Merrimon Avenue and two (2) other accidents along W. T. Weaver Boulevard during this period.

Traffic Signal Warrant Analyses:

Traffic Signal Warrant Analyses were conducted along W. T. Weaver and University Heights Boulevards as per the warrants established in the MUTCD. However, this intersection currently meets six (6) of the necessary warrants. There are no plans to install a traffic signal at this location due to the fact that the UNC-A Master Plan is not complete at this time. This location will be reviewed in relationship to other intersections and Traffic Engineering projects for the upcoming 1997-98 Budget Year.

Public Input/Concerns:

The Traffic Engineering Division has received only six (6) complaints concerning the new traffic control devices and measures installed along Edgewood Road. An overview of these complaints indicate that motorists were initially upset about the new installations as they relate to safety, advance warnings and pedestrian crosswalks. However, these concerns have been addressed by Traffic Engineering and the Asheville Police Department.

Information obtained from UNC-A indicates that the campus seems to have accommodated to the new traffic control measures and devices installed along Edgewood Road. UNC-A has continued to work on their long-range modification plans for the campus roadway system.

Staff contacted Mr. David Whitley and Mr. Ron Dame, residents along Edgewood Road. They indicated that they had observed that overall speeds had reduced but indicated that it "doesn't feel there has been a decrease in traffic." They indicated that the current situation has improved with the additional traffic control measures. They expressed concern on what may happen in the future and cited the UNC-A Master Plan and also future development in the area. They also conveyed their receptiveness to continuing to work with the City and UNC-A.

Recommendations:

The Asheville Police Department has worked diligently this year to address the concerns of the Edgewood residents and will continue periodic monitoring of this area.

City staff recommends that all new traffic control devices and measures remain along Edgewood Road. Staff will continue to monitor activities along Edgewood Road.

Mr. C.D. Williams noted that the traffic count along W.T. Weaver Boulevard was over the last three years, whereas the traffic count along Edgewood Road was only during six months. He felt the comparison was not adequate. He also felt that with Broadway Avenue being under construction, that construction has caused more traffic on W.T. Weaver Boulevard than the traffic control measures recently installed on Edgewood Road.

Mr. Tom Byers, Special Assistant to the Chancellor at UNC-A, said that their master plan incorporates some possible road patterns around the campus. However, they have concluded that those possible changes are too far in the future and too uncertain to offer anything useful in this evaluation.

Ms. Laura Whitley stated that the three-way stops have been beneficial on Edgewood Road. Since she has heard that UNC-A is considering privatizing dorms in the neighborhood, she would like Council to keep options open for more traffic calming devices on Edgewood Road.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

PURCHASING CARD PROGRAM

Mr. Bill Schaefer, Finance Director, said that this resolution would authorize the City Manager to execute an agreement between the City of Asheville and Wachovia Bank Card Services to establish a

Purchasing Card Program for use in making official purchases of goods and services.

Mr. Schaefer explained that a "Purchasing Card" is a type of corporate credit card which will be used by City elected officials and designated staff members in making purchases of goods and services in the course of their official duties. The use of such cards can provide: opportunities for streamlining small procurement actions; enhancing accountability; improving expenditure analysis capabilities; improving accuracy and timeliness of payments to vendors; allowing more flexible cash flow alternatives; etc.

Distribution of the cards will be to individuals identified by Department Directors. Each individual issued a card will be personally responsible for its safekeeping and for its use only for official business of the City. Each card will be coded to a specific Department/Division and will have a daily and monthly charge limit. This allows automatic budget expenditure tracking and has the potential to be used to cap expenditures for an individual, a Division, a Department or City-wide total. The Parks and Recreation Department will serve as the "pilot" for implementation, with expansion to the rest of the Departments expected by the end of the fiscal year.

Staff contacted several other local government units to obtain lessons learned from their implementation of purchasing card programs and then evaluated programs proposed by several banking institutions. Wachovia Bank Card Services' program was determined to provide the best opportunity to improve the efficiency, cost effectiveness and accountability of the City's purchasing transactions.

The Finance Department recommends approval of the resolution.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

At 5:10 p.m., Mayor Martin announced a ten minute break.

FAIR HOUSING LAWS

Mr. Marvin Vierra, Community Development Director, gave a brief review of federal, state, local fair housing laws and local enforcement program.

Mr. Vierra said that the North Carolina General Assembly passed legislation in 1985 (Chapter 776) authorizing the City of Asheville to enforce the State Fair Housing Act (Chapter 41A of the N.C. General Statutes). The City Council created the Asheville Fair Housing Commission on October 15, 1985, with passage of Ordinance No. 1539. On April 28, 1987, the City of Asheville's Fair Housing program was certified by HUD on being substantially equivalent to those of the Federal Fair Housing Act. The fair housing program has been administered under contract by the Asheville-Buncombe Community Relations Council since January 1988. The program became a joint City/County program on September 18, 1990, with the passage of Ordinance No. 1876. The Community Relations Council provides staff support to the Asheville-Buncombe Fair Housing Commission under contract with the City and County.

Mr. Robert Smith, Director of the Asheville-Buncombe Community Relations Council briefly reviewed the charge of the Community Relations Council by stating that it performs community outreach through education

and testing programs and investigates discrimination cases concerning real estate transactions.

Vice-Mayor Field voiced concern regarding zoning changes in the proposed Unified Development Ordinance and whether those change would hamper the Fair Housing Program. She felt it would be interesting to see how other cities have dealt with that concern. She asked staff to have information available showing that well planned multi-family housing in an area can actually increase property values.

Ms. Beth Maczka, Executive Director of the Affordable Housing Coalition, stated that the Coalition does have concerns with some zoning designations in the proposed Unified Development Ordinance on rental units.

REQUEST CONCERNING ASSISTANCE WITH THE CHARLOTTE STREET SMALL AREA PLAN

Mr. Mike Matteson, Urban Planner, said that staff is providing an update regarding a previous request that the AIA North Carolina Urban Design Assistance Team be brought in to assist with the Charlotte Street Small Area Plan.

On November 19, 1996, the chairman of the Charlotte Street Advisory Committee and staff asked council to consider allowing the city to request assistance from the AIA North Carolina Urban Design Assistance Program on the small area plan. This request was in response to the committee's desire for broad citizen participation, the ability to visualize alternatives, and the incorporation of design as an aspect of the planning process.

City Council tabled this issue because they wanted more information regarding the costs involved with hosting a design team and regarding how the money could be raised.

Staff has since discovered that the costs associated with hosting a UDAT would be significantly higher than first anticipated. The total costs to the community would be between $30,000 and $50,000. In light of this discovery, the committee now feels that hosting a design team would be cost prohibitive. Therefore, the advisory committee and staff are no longer pursuing the UDAT's assistance with the plan.

As an alternative to bringing in the Urban Design Assistance Team, staff has proposed modifying our original process to include holding our own two to three day workshop/charrette from which the plan would be drafted. This alternative would be very similar to the UDAT at a fraction of the cost. We are confident that there are professionals (both locally and from outside the city) from a variety of disciplines that will be willing to volunteer their time t o assist us with this process.

This alternative would still involve some fundraising by the committee/community. However, the total costs would likely be in the $2,000 to $3,000 range and the committee is confident that they can raise these funds for the workshop/charrette.

Staff recommends approval of the alternative proposal of a modified process for a two to three day workshop/charrette with the necessary funds raised by the committee.

Councilman Skalski asked if City Council would be willing to consider a cash match if the Committee cannot raise the entire amount necessary for the workshop. He felt that once the Charlotte Street

Small Area Plan is implemented, it will bring the City a very good tax return, especially since the infrastructure on Charlotte Street is already in place.

Mayor Martin and Councilmen Cloninger and Worley said that if the Committee cannot raise the money, they need to come back to Council and then Council can consider the options available. They noted, however, that City Council is very supportive of the Charlotte Street effort.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

CLOSED SESSION

At 6:03 p.m. Councilman Worley moved to go into closed session to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body. The parties in the lawsuits with respect to which the Council expects to receive advice are: The City of Asheville, City Board of Adjustment, Taylor and Murphy Construction Company, William H. Anthony and Elizabeth H. Anthony, and Hiram S. Cody. The statutory authorization is G.S. 143-318.11 (a) (3). This motion was seconded by Vice-Mayor Field and carried unanimously.

At 6:45 p.m. Councilman Worley moved to come out of closed session. This motion was seconded by Vice-Mayor Field and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:45 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Friday - January 10, 1997 - 1:00 p.m.
Kanuga Conference Center, Hendersonville, N.C.

City Council Retreat

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Friday, January 10, 1997

Each department reviewed their current and future projects with Council.

Saturday, January 11, 1997

Budget Update - Audit/Budget Director briefed Council on the five year long range budget forecast. He reviewed the summary of General Fund revenues and appropriations. City Council instructed the City Manager to meet with the County Manager to discuss the Patrol and Investigation portion in the Water Agreement and if the City is receiving the correct amount.

Annexation - Ms. Julia Cogburn reviewed the current history of annexation in Asheville and asked for future direction from City Council. Because it is recommended to have a map on file and since the last map of consideration expired on August 17, 1995, City Council instructed Ms. Cogburn to prepare a map of consideration to be considered at a future City Council meeting.

Staff was instructed to study the Skyland II area to see if it qualifies for annexation, along with a recommendation from staff. Also, staff was asked to look for any other areas in the City that might qualify for annexation.

It was the consensus of Council to look at the City's extraterritorial jurisdiction ("ETJ") area in order to determine whether or not to expand the ETJ in additional areas. This was requested to be reviewed at a future worksession with a staff recommendation regarding future expansion.

Asheville Transit Authority - Mr. Carl Ownbey, Transportation Planner, briefed Council on the history of the public transportation system in Asheville. He then reviewed the current status of the system with comparative information from other North Carolina systems with regard to ridership by routes, major capital equipment, operating expenses and funding and transit fares. He briefly spoke about future funding by reviewing the five-year service plan and budget projects.

The following recommendations of the Transit Authority were agreed upon by Council: (1) maintain local transit funding at a minimum of $813,485; (2) continue working toward increasing performance enhancements which are directly linked to the amount of state funding combined with federal funding received; (3) look at possibility of fare increase up to 75 cents, which would allow BOOST fare to be raised to $1.50; and (4) re-evaluate contract in 1998 to find better ways to provide services.

When Councilman Skalski asked the City Council enroll Asheville as a member of the N.C. Coalition for Public Transportation, Mr. Tom

Tomlin, Chairman of the Asheville Transit Authority, said that the Authority would research the benefits and report back to City Council. He noted that it would cost Asheville approximately $6-7,000 annually to become a member.

Mayor Martin asked staff to explore on a trial basis the use of electric buses.

Affordable Housing - Mr. Marvin Vierra, Community Development Director, reviewed the history of affordable housing in Asheville, along with the legal and regulatory issues. He touched upon the affordable housing needs and the financial resources for affordable housing.

Vice-Mayor Field felt that Council should be clear on our policy concerning affordable housing stressing that Council needs attainable goals.

Council asked the Housing & Community Development Committee to investigate the pros and cons of the City keeping the CDBG funds in house versus making grants to non-profit organizations as a way of being able to address large problems in a single area over a shorter period of time. Council was also interested in seeing how other cities are handling the CDBG funds.

Bele Chere - Mr. Irby Brinson, Director of Parks & Recreation, reviewed the Bele Chere Strategic Plan which represented the future of the annual Bele Chere Festival from 1997-2001. He said the Bele Chere Mission is to host and produce a quality community celebration which: celebrates the region's cultural diversity, sets the stage for creative expression, is fun for the entire family, is self-sustaining, and contributes to the long-term economic benefit of Asheville, Buncombe County and Western North Carolina.

Mr. Brinson then reviewed each Bele Chere goal and objective which are critical to the improvement of the festival. Said goals are (1) to develop financial stability for the festival by becoming self-sustaining, without effecting the quality of the event; (2) to enhance the festival's image with the media and throughout the community; (3) to enhance the quality of the vendors, entertainment events, and overall festival logistics; (4) to restructure the festival by re-evaluating the roles and responsibilities associated with producing the festival; (5) to improve relationships with the downtown merchants; (6) to resolve the issues surrounding the selling and consumption of alcohol at the festival; (7) to use the excess revenue generated to foster improvements in festival operations, downtown and at the river; and (8) to make the festival as safe as possible for those attending.

City Council endorsed the Bele Chere Strategic Plan with the understanding that issues involving alcohol are to be brought back to the full Council for recommendations and approval at a later date. It was suggested that the Strategic Plan be reviewed annually.

Community Oriented Government - Ms. Robin Westbrook, Community and Public Information Coordinator, reviewed with Council events and developments that have been occurring over the past six months since Community Oriented Government has started. She reviewed a Neighborhood Matching Grant Program to begin with the next couple of months.

Ms. Westbrook then updated Council on the criteria and application process for the All American City & Community Award. City Council approved proceeding with applying for this award.

Fire Accreditation & Station Locations - Fire Chief John Rukavina reviewed information on fire and emergency incidence in Asheville to date, including fire loss, life loss and injury-related data.

City Council endorsed the pursuit of Fire Service Accreditation with the understanding that costs of accreditation over the two-three year span of the process (estimated at $20,000) would be subject to the annual budget process.

Fire Chief Rukavina briefed Council on new computer software used for the evaluation of fire station locations. Council endorsed the use of the software to relocate Station Six with the understanding that this would require a public hearing as a part of past annexation efforts.

Police Resource Centers - Police Chief Will Annarino reviewed the status of the Police and Community Neighborhood Resource Centers. He felt that the future of Resource Centers in the City of Asheville looks very positive. Based on the results of the West Asheville and Montford surveys, it is apparent that communities like and support the concept of Resource Centers. The Centers have provided an avenue for the police to address neighborhood concerns and strengthen the relationship between the police and citizens. The Centers are becoming an integral part of customer service throughout the City.

He said that other communities have shown great interest in establishing resource centers in their community. The City is currently working with the Oakley community to establish a Center on Fairview Road and it is anticipated this will be achieved in the very near future.

Resource Centers must be established as a stand-alone organization operated and controlled by the community based on specific guidelines. The community must remain active in its involvement for the centers to grow and meet the needs of the community.

A police substation is planned for the City of Asheville Fire Department's portion of the Skyland Volunteer Fire Department building and will come back to Council for funding and approval.

Other Issues

Several miscellaneous issues were discussed by Council and staff received direction and/or input on current projects and issues.

Sunday, January 12, 1997

The following are the 12 top goals arrived at by City Council: (1) **Housing** - (a) develop comprehensive housing plan; (2) **Boards and Commissions** - (a) continue new boards and commissions quarterly process; (b) develop community leadership program; (3) **Community Oriented Government** - (a) televise City Council meetings; (b) continue to support Community Oriented Government; (c) better utilize "CityWorks"; (4) **City Facilities** - (a) continue efforts with Grove Arcade; (b) continue the work on the future of the Civic Center; (c) prioritize stormwater needs; (d) complete Transit Transfer Center; (e) complete funding for and begin construction of Stephens-Lee Recreation Center; (5) **Land Use Planning** - (a) complete Unified Development Ordinance; (b) develop process to update 2010 Plan; (c) review land use variances; (6) **Public Safety** - (a) encourage and support Police Resource Centers and Substations; (b) support accreditation of the Fire Department; (7) **Employee Relations** - (a) review City pension plan; (b) revisit Civil Service Law; (c) support Legacy of Excellence; (d) encourage "risk taking"; (e) continue Pay Plan improvements; (f) decentralize government and empower employees; (8)

Economic Development - (a) economic development equals good schools; (b) develop strategy to recruit "clean" industry; (c) continue efforts in City development; (d) continue efforts in downtown development; (9) **Fiscal Policy** - (a) adopt Fiscal 1997/98 budget with no tax rate increase; (b) maintain or improve City's bond rating; (c) adhere to City's Fiscal Policy; (d) maintain or improve the City's fiscal reserves; (10) **Education** - (a) use community forums/focus groups/task force for School Board selection process; (11) **Parks and Recreation** - (a) continue and expand greenway system; (b) move forward with plans for Richmond Hill; (c) implement Bele Chere Plan; (d) implement Parks & Recreation Long-Range Plan; and (12) **City/County/ Regional Cooperation** - (a) improve relations with legislators; (b) continue relationship with County Commissioners; (c) pursue ISTEA funding from State; (d) investigate consolidations of City/County functions. These top 12 goals were arrived at after 38 small topics were introduced and combined.

Mayor Martin adjourned the meeting at 11:10 a.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - January 14, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Skalski gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JANUARY 14-21, 1996, AS "DR. MARTIN LUTHER KING JR. WEEK" IN THE CITY OF ASHEVILLE

Mayor Martin read the proclamation proclaiming January 14-21, 1996, as "Dr. Martin Luther King Jr. Week" in the City of Asheville. He presented the proclamation to Ms. Oralene Simmons who briefed the Council on activities that would be taking place during the week.

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 17, 1996, AND THE WORKSESSION HELD ON JANUARY 7, 1997

B. RESOLUTION NO. 97-1 - RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND WACHOVIA BANK CARD SERVICES TO ESTABLISH A PURCHASING CARD PROGRAM

Summary: This resolution would authorize the City Manager to execute an agreement between the City of Asheville and Wachovia Bank Card Services to establish a Purchasing Card Program for use in making official purchases of goods and services.

A "Purchasing Card" is a type of corporate credit card which will be used by City elected officials and designated staff members in making purchases of goods and services in the course of their official duties.

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C. MOTION AUTHORIZING THE PLANNING & DEVELOPMENT DEPARTMENT TO HOLD A WORKSHOP/CHARRETTE TO ASSIST WITH THE CHARLOTTE STREET SMALL AREA PLAN

D. RESOLUTION NO. 97-2 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A TEMPORARY CONSTRUCTION EASEMENT WITH THE N.C. DEPARTMENT OF TRANSPORTATION FOR THE U.S. 74 HIGHWAY WIDENING PROJECT

Summary: The consideration of a request from State of North Carolina Department of Transportation ("NC DOT") for a temporary easement on City owned property in conjunction with the widening of US 74 Highway.

NC DOT will begin construction of US 74 highway in the spring of 1997. The project consists of widening the existing two lane highway to four lanes for approximately 4.0 miles.

The Water Resources Department has been requested by the NC DOT for a temporary construction easement on Parcel 0.65 to facilitate the project. The temporary construction easement will expire at the end of the construction improvements without need or requirement for permanent easement. This site currently is used for the location of the existing Minehole Gap Reservoir and associated water distribution main for the Fairview service area. The effected area is approximately 5,455 square feet or 0.12 acres. The construction proposed for the area consists of excavation (cut) which will extend the side slope for the roadway along this City property. The compensation to the City for the temporary easement will be $2200.00.

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E. RESOLUTION NO. 97-3 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH HAYNES ELECTRIC UTILITY CORPORATION TO PURCHASE AND INSTALL LIGHTING FOR THE LIVINGSTON STREET BALLFIELD

Summary: In an effort to maintain and improve the City of Asheville's park facilities, the Parks and Recreation Department has created a long-term program to upgrade the lighting for City-owned ballfields and has budgeted $60,000 annually to pay for these improvements. The Livingston Street Ballfield is on the schedule for the current fiscal year.

The City, through the Parks and Recreation Department, has solicited informal bids for the above-stated project. This bid process was engaged in September 1996. A total of eleven advertisements for bid letters were sent out, including 5 to certified minority businesses registered with the City. Advertisement letters were also sent to the Asheville Business Development Center, the City's Minority Business Office and other similar business resource organizations. Four bid proposals were received, none of which were from certified minority businesses. The four bidders are listed below:

Firm Name and Location	Base Bid
Haynes Electric Utility Corp. Asheville, N.C.	$ 44,766
Palmer Electrical Contracting Inc. Brevard, N.C.	$ 97,320
Hayes & Lunsford Electrical Contractors Inc. Asheville, N.C.	$ 89,200
Electrics of Asheville Inc. Asheville, N.C.	$ 114,300

After review of these bid proposals and the qualification process of the bidders, it was determined that Haynes Electric Utility Corp. would be selected as the lowest qualified bidder and City staff would seek Council approval to enter into a contract to purchase and install lighting at Livingston Street Ballfield.

It was then determined by the contractor that additional improvements would need to be made over and above the scope of the original bid. These changes included switching to a more powerful system, which would require the addition of three large transformers and other miscellaneous materials and labor. The contractor submitted a

proposal for a contract change order. City staff reviewed the proposed change order, and concur with Change Order #1 in the amount of $10,696.

Staff recommends that the City Manager be authorized to enter into a contract with Haynes Electric Utility Corp. for the amount of $44,766, and Contract Change Order #1 for $10,696, to purchase and install lighting at Livingston Street Ballfield.

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F. RESOLUTION NO. 97-4 - RESOLUTION AUTHORIZING THE SALE OF A TAX FORECLOSURE LOT LOCATED ON FAIRFAX AVENUE AND AUTHORIZING THE MAYOR TO EXECUTE A NON-WARRANTY DEED CONVEYING THIS LOT TO THE PURCHASER

Summary: Certain lots within the corporate limits of the City of Asheville have previously been foreclosed upon due to the failure of the property owners to pay ad valorem taxes for the City of Asheville and the County of Buncombe. One of those lots is located on Fairfax Avenue and is identified on the Buncombe County tax maps and records as PIN 9638.17-22-1387.

The County of Buncombe has approved the sale of this lot for $450.00. The County of Buncombe, the City of Asheville and the Asheville Board of Education have previously entered into an arrangement whereby the County of Buncombe would convey certain of these tax lots on behalf of itself, the City and the School Board. A question has arisen, however, with regard to the record title to the property which may be addressed by the City of Asheville providing a non-warranty deed to the purchaser, disclaiming any other interest the City of Asheville may have in the property.

The resolution would authorize the County of Buncombe to convey this lot for the amount of $450.00 and would also authorize the Mayor to execute a non-warranty deed to convey this lot to the purchaser.

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G. RESOLUTION NO. 97-5 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY AN EASEMENT OVER A PORTION OF DISPOSAL PARCEL 52A OF THE EAST RIVERSIDE REDEVELOPMENT PROJECT TO BELL SOUTH COMMUNICATIONS INC.

Summary: Bell South has requested an easement over a portion of Disposal Parcel 52A in the East Riverside Redevelopment Project Area.

Disposal Parcel 52A is located between Asheland Avenue and Federal Street approximately 250 feet south of Hilliard Avenue. Due to its shape and topography assemblage with adjoining property is its most likely reuse.

Bell South Telecommunications, Inc. has agreed to pay $1,677.86 for an easement over a portion of Disposal Parcel 52A approximately 15' x 30' containing 419 square feet as a location for a type 80 service cabinet to serve the surrounding area. The easement would adjoin Federal Street from which it would be accessed and Bell South would plant a screen hedge along the other three sides of the property. Two trees would be planted on the Federal Street side. The easement would render the portion of land encumbered by the easement useless for any other purpose.

Disposal Parcel 52A contains 5,394 square feet and has a current Fair Reuse Value of $21,600.00. Compensation for the easement was calculated by applying the per square foot value of the whole to the area of the easement.

Approval of the resolution will authorize conveyance of the easement to Bell South for the amount of $1,677.86.

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H. MOTION ACCEPTING STAFF'S RECOMMENDATIONS PERTAINING TO TRAFFIC CONCERNS ALONG EDGEWOOD ROAD WITH NEW TRAFFIC CONTROL DEVICES AND MEASURES ALONG THAT ROAD TO REMAIN

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Consent Agenda and they will not be read.

Councilman Skalski moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE AMENDING THE ZONING ORDINANCE TO REZONE THE OI PORTIONS OF PIN NOS. 9655.09-15-2013 AND 9655.09-15-0415 LOCATED WEST OF HENDERSONVILLE ROAD TO R-2 MEDIUM DENSITY RESIDENTIAL

Ms. Erin McLoughlin, Urban Planner, asked that City Council reschedule this public hearing. Staff has been directed to study the OI zoning of two parcels of land west of Hendersonville Road. In the past month the property owners have been in negotiations concerning the zoning of these parcels. They feel that they are making progress and have requested that they have more time. Staff requests that Council reschedule this public hearing to February 11, 1997, at 5:00 p.m. in the Council Chamber in the City Hall Building, in order to allow more time for negotiations among property owners and to allow sufficient notice to be sent to neighboring properties.

Mr. William Shuford, affected property owner, asked City Council to reschedule the public hearing for approximately three to six months so the foreclosure proceedings on his property could be completed.

Upon inquiry of Mayor Martin, City Attorney Oast said that rescheduling the public hearing for February 11, 1997, should have no effect on the foreclosure case. To the extent that it might have an effect, he felt that the court in the foreclosure case could enter an appropriate order to stay the public hearing.

Councilman Hay felt that the negotiations do include Mr. Shuford at this point and he was concerned that progress is not being made out there. The south Asheville residents were told that Council would do something for them, but progress has been very slow.

Upon inquiry of Vice-Mayor Field, Mr. Shuford explained that he would not commit to any buffer on his property until the foreclosure proceedings have been completed.

City Attorney Oast said that City Council's consideration of this matter needs to be made independent of any agreements that are reached by the property owners. Negotiations addressed by Mr. Shuford should

not be of any concern to Council, except and insofar as it bears on the question of whether the public hearing should be continued or not.

Councilman Worley said that this matter has been rescheduled from last year until this date to give the parties an opportunity to negotiate. He felt that what Mr. Shuford is saying that while he really should be a party to the negotiations, he really can't until he has an ownership position in the property. Councilman Worley said that he would be willing to give the parties more time if necessary.

Ms. Laura Eide, property owner in the affected area, was not opposed to sitting down with Mr. Shuford and discussing his concerns.

Mayor Martin said that if an agreement has not been reached by February 11, 1997, City Council can again reschedule the public hearing for additional time.

Councilman Cloninger agreed with Mayor Martin stating that on February 11 City Council could re-evaluate the issues at hand and then, if appropriate, reschedule the public hearing again.

Councilman Worley moved to reschedule the public hearing to February 11, 1997, at 5:00 p.m. in the Council Chamber in the City Hall Building. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Worley responded to a question from Mr. H.K. Edgerton when he asked how this would affect the UDO process.

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on January 8, 1997:

Sand Hill Road Mobile Home Park

Mr. Carl Ownbey, Urban Planner, said that this proposed development is a 41 lot mobile home park on 12 acres located off Sand Hill Road in West Asheville.

On December 2, 1996, the Planning Department received the site plan for the proposed mobile home park. The proposed project will be 41 individual lots developed for mobile homes. The site plan was presented to the Technical Review Committee on December 9, 1996, for their comments.

On January 8, 1997, the Commission reviewed the site plan and opened the meeting for public comment. There were no comments from the public.

The Commission voted unanimously to approve the project with no conditions.

The Planning Staff and the Commission recommend approval of the Sand Hill Mobile Home Park with no conditions.

Council accepted the report of the Planning and Zoning Commission with the above condition, thereby approving the project by taking no action.

B. RESOLUTION NO. 97-6 - RESOLUTION APPOINTING BRUCE TOMPKINS AS CHAIRMAN OF THE CITY BUSINESS AND DEVELOPMENT COMMISSION

Vice-Mayor Field, Chairman of the City Council Boards and Commissions Committee, said that the Commission members were asked if anyone was interested in serving as Chairman. The Council Committee recommends Mr. Bruce Tompkins, representative of the Biltmore Village Merchants Association, to be Chairman of the City Business and Development Commission for calendar year 1997 or until his successor has been appointed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 97-6. This motion was seconded by Councilman Sellers and carried unanimously.

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C. CLAIMS

The following claims were received by the City of Asheville during the week of December 13-19, 1997: Lloyd & Barbara Hughes (Streets), Carolyn Staton (Water), Suzette Roberts (Parks & Recreation), Sharon K. Waldrop (Water) and Tonya Dockery (Streets).

The following claims were received during the week of December 20, 1996 - January 2, 1997: Bart Boyer (Finance), Asheville Manor (Sanitation), Tina Boegemann (Water), Karen Branks (Water), Sherron Love (Water) and Charles Smith (Sanitation).

These claims have been referred to Asheville Claims Corporation for investigation.

D. LAWSUIT

The City was filed with a Petition for Writ of Certiorari on December 31, 1996, which is generally described as follows: In re: The matter of William H. Anthony, Elizabeth H. Anthony, and Hiram S. Cody Jr. Appeal to Superior Court of Board of Adjustment decision (Sign Variance).

The appeal is from the Board's decision to grant a variance to Motel 6 for the height and area of a sign. Motel 6 was represented by its own counsel before the Board. The City Attorney's Office will advise the attorney for Motel 6 that the appeal has been filed and expect that they will take appropriate steps to represent their own interest. Accordingly, our involvement will be limited to assisting in the preparation of the record for review.

To this limited extent, this matter will be handled in-house by Ms. Martha McGlohon.

E. CLOSED SESSION

At 5:42, Councilman Worley moved to go into closed session for the following purpose: To establish, or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease. The statutory authority for this closed session is G.S. 143-318.11 (a) (5), and the properties under consideration are (1) the Grove Arcade and (2) approximately 23 acres located on Old Haywood Road, PIN No. 9628.17-02-6431. This motion was seconded by Vice-Mayor Field and carried unanimously.

At 6:43, Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

F. RESOLUTION NO. 97-7 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN APPLICATION AND ANY OTHER NECESSARY DOCUMENTS FOR ACQUIRING THE GROVE ARCADE BUILDING FOR HISTORIC MONUMENT PURPOSES

City Attorney Oast said this action would authorize the Mayor to execute an application, as amended, to General Service Administration for obtaining the Grove Arcade Building for historic monument purposes.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Cloninger moved for the adoption of Resolution No. 97-7. This motion was seconded by Councilman Skalski and carried unanimously.

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VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:45 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - January 21, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger (arrived in meeting at 3:25 p.m.); Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT AGENDA:

Grant for Stephens-Lee Recreation Center

Summary: The City of Asheville, through the Parks and Recreation Department, wishes to apply for grant funds to assist with the renovation of the Stephens Lee Recreation Center.

Funds are available through the N.C. Department of Environment, Health and Natural Resources, Division of Parks and Recreation through the N.C. Parks and Recreation Trust Fund for renovation of public indoor and outdoor recreation areas and facilities.

It is the goal of the Parks and Recreation Department to renovate the Stephens Lee Recreation Center due to long and extended use over the years, changing needs of the public, and the need to meet safety and access standards. Stephens Lee Recreation Center is the number one priority for renovation since it is a historic structure that does not currently meet building code, is not ADA accessible, and does not provide the level of service the community and neighborhood needs.

The Parks and Recreation Department is requesting $250,000 in grant funds which would be a 50% cash match. Funds are currently available in the Capital Improvements Budget for the Stephens Lee Recreation Center.

The Parks and Recreation Department recommends the City Manager and/or the Mayor to apply and enter into the agreement.

Mountain Health Care, P.A., Agreement

Summary: This agreement will allow the City's Health Care Plan, its employees, retirees, and their families to benefit from the discount fee schedule for medical services rendered by member physicians in Buncombe, Henderson, and Madison Counties.

Mountain Health Care, P.A. (MHO) is a physician-owned Preferred Provider Organization (PPO) representing approximately 98% of local area physicians.

Typically HMO's and other commercial health management agencies negotiate discounts for physician services in the realm of 20% off normal charges. These discounted fees are "repackaged" by the HMO and offered for sale to employers at 7 to 15% off normal rates. The difference becomes in part the profit to the HMO.

MHC was formed to allow area physicians to compete in the health delivery market by offering greater discounts direct to employers, while not discounting as deeply as they normally would to a commercial HMO.

For the past year the City has negotiated with MHC to provide discounts of approximately 15% overall for all services in the local

area. Whereas typical HMO's have very limited networks of physicians where their prices are guaranteed, the MHC proposal covers almost 98% of all physicians including specialists and pediatricians in Buncombe, Henderson, and Madison Counties.

The cost to the City will be approximately $27,300 annually for access to the MHC Network, which sum will be paid out of the Employee's Medical Benefit Trust, and will require no appropriation from the City beyond the Employee Benefit Costs already approved by the Council under the 1996-97 budget.

Recommend the City Manager be authorized to execute the MHC agreement on behalf of the City.

Authority to Sign Amendments and Change Orders for the Mills River Regional Water Treatment Facility Project

Summary: The consideration of a resolution to authorize the City Manager to execute amendments and change orders for the Mills River Regional Water Treatment Facility.

In November, 1996, both the Asheville/Buncombe Water Authority and the City Council passed resolutions awarding bids to contractors for the Mills River Regional Water Treatment Facility Project.

Construction is now underway, and there is a need to be able to expedite necessary field work changes normally associated with a project of this scope, approximately $25,000,000. This would only be for such changes when they are within the approved budget amount. Any proposed amendment or change order which would exceed the budget would be brought back before the City Council for approval.

All amendments and change orders executed would be reported to the Water Authority and the City Council.

Staff recommends that the attached resolution be approved authorizing the City Manager to execute amendments and change orders for the Mills River Regional Water Treatment Facility Project.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these Consent Agenda items on the next formal City Council agenda.

REQUEST BY THE ASHEVILLE-BUNCOMBE VISION RELATIVE TO OFFICE SPACE AT 29 HAYWOOD STREET

Ms. Julia Cogburn, Planning & Development Director, said that the VISION for Asheville-Buncombe County requests permission to continue to utilize space at the City Development Office (29 Haywood Street) until January 1999.

The City Council agreed in the spring of 1996 to provide space for the VISION for Asheville-Buncombe County in the City Development Office (29 Haywood Street). The agreement at the time was for VISION to utilize space in the City Development Office for its Executive Director and other support staff for a period of six months. Agreements were also worked out concerning use of office machines and the conference room.

The VISION Board has now requested continuation of this agreement until December 31, 1998. It is proposed that a new memorandum be drafted stating the agreement of both parties. The agreement will state

that the City may terminate the agreement upon 90 days notice if the space is needed for other City purposes. It is estimated that the value of this contribution from the City to VISION would be worth at least $10,000.00 annually. It should also be noted that the City is providing financial contributions to the VISION of Asheville-Buncombe County in the amount of $15,000 for Fiscal Year 1997.

The VISION staff has been a welcome addition to the operations of the City Development Office. Staff recommends council authorize entering into an agreement (through a memorandum of understanding) with VISION to utilize space as indicated above.

Mayor Martin noted that this will be a significant contribution on the part of the City and asked that the value of the contribution be included in the body of the agreement.

Upon inquiry of Vice-Mayor Field the addition of one office in the building being designated for the Police Department, Ms. Cogburn said there will be no problem with the space the VISION office is requesting.

Councilman Hay spoke in total support of the relationship between the VISION of Asheville-Buncombe and the City of Asheville. He was pleased that the City could allow them space in the City Development offices located downtown which allows them a high profile in the community and shows that the City is supporting them.

Mr. Phil Carson, Chairman of VISION of Asheville-Buncombe, thanked City Council for their support, as well as the wide-range of support from the entire community.

When Councilman Hay asked that this contribution of office space not be considered in lieu of actual funding during the outside agency budget negotiations, City Manager Westbrook said that it will be used to show other organizations that this is what the City is really contributing.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

REQUEST TO CHANGE NAME OF ASHEVILLE-BUNCOMBE WATER AUTHORITY

It was the consensus of City Council to postpone this item.

Ms. Jane Conner brought to Council's attention that the Asheville Business Women's Association ("ABWA") has used the initials "ABWA" for many years and hoped that the Asheville-Buncombe Water Authority's initials will not continue to be "ABWA".

CITY MANAGER AUTHORITY WITH RESPECT TO CONTRACTUAL MATTERS

City Manager Westbrook said that at the present time, the City Manager has the authority to execute construction or repair contracts up to $30,000 on behalf of the City. Likewise, the City Manager has the authority to purchase or lease supplies, materials, or equipment up to an expenditure of $20,000. Such contracts, purchases or leases in excess of these limits require approval and award by City Council. The City's Fiscal Procedures Manual outlines the methods by which such contracts or lease agreements may be solicited and awarded.

As a part of the budget review process, the City Council approves specific projects and purchases for the upcoming fiscal year. Specific

funds are appropriated for the project or purchase as a part of the budget. When bid proposals or quotes are received for contracts beyond the limits of the City Manager's authority, these projects are awarded by City Council.

From a process efficiency standpoint, it would be advantageous for the City Manager to have the authority to approve contract change orders for construction, repair, or professional contract work. It would also improve efficiency for the City Manager to be able to execute lease agreements for purchases on behalf of the City. Both of these items would be subject to the requirement that the change order or lease agreement be within the budgeted amount for the contract or purchase. Staff would propose to report to City Council on a quarterly basis all contract change orders or lease agreements executed by the City Manager within these contract or lease limits.

Staff recommends that the City Manager be authorized to execute contract change orders for construction, repair, or professional work and also to execute lease agreements provided that such authority shall be limited to the amount budgeted for the contract or purchase.

Upon inquiry of Councilman Worley, City Attorney Oast said that there will be some types of contracts that this resolution will not appropriately cover and those will be brought to Council's attention individually.

City Manager Westbrook noted that most change orders arise from the field and are not staff generated change orders.

Vice-Mayor Field asked that there be a contingency amount in every construction contract.

Mayor Martin asked that the record show that City Council has received this information and instructed the City Attorney to prepare the appropriate resolution for consideration at the next formal City Council agenda.

CLOSED SESSION

At 3:27 p.m., Councilman Cloninger moved to go into closed session for the following reasons: (1) to prevent the disclosure of information that is privileged or confidential pursuant to the law of N.C. Gen. Stat. 160A-168 - statutory authorization is G.S. 143-318.11 (a) (1); and (2) to consult with an attorney employed or retained by the City in order to preserve the attorney-client privilege between the City and its attorney - the statutory authorization is G.S. 143-318.11 (a) (3). This motion was seconded by Councilman Skalski and carried unanimously.

At 4:58 p.m., Councilman Cloninger moved to come out of closed session. This motion was seconded by Councilman Skalski and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:58 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - January 28, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE ANNUAL RETREAT HELD ON JANUARY 10-12, 1997; THE REGULAR MEETING HELD ON JANUARY 14, 1997; AND THE WORKSESSION HELD ON JANUARY 21, 1997

B. RESOLUTION NO. 97-8 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE PARKS AND RECREATION TRUST FUND WITH THE STATE OF NORTH CAROLINA FOR A STEPHENS-LEE CENTER RENOVATION GRANT

Summary: The City of Asheville, through the Parks and Recreation Department, wishes to apply for grant funds to assist with the renovation of the Stephens Lee Recreation Center.

Funds are available through the N.C. Department of Environment, Health and Natural Resources, Division of Parks and Recreation through the N.C. Parks and Recreation Trust Fund for renovation of public indoor and outdoor recreation areas and facilities.

It is the goal of the Parks and Recreation Department to renovate the Stephens Lee Recreation Center due to long and extended use over the years, changing needs of the public, and the need to meet safety and access standards. Stephens Lee Recreation Center is the number one priority for renovation since it is a historic structure that does not currently meet building code, is not ADA accessible, and does not provide the level of service the community and neighborhood needs.

The Parks and Recreation Department is requesting $250,000 in grant funds which would be a 50% cash match. Funds are currently available in the Capital Improvements Budget for the Stephens Lee Recreation Center.

RESOLUTION BOOK NO. 23 - PAGE 377

C. RESOLUTION NO. 97-9 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH MOUNTAIN HEALTH CARE, P.A., FOR THE PURPOSE OF SECURING DISCOUNTED RATES FOR PROFESSIONAL MEDICAL SERVICES

Summary: This agreement will allow the City's Health Care Plan, its employees, retirees, and their families to benefit from the discount fee schedule for medical services rendered by member physicians in Buncombe, Henderson, and Madison Counties.

The cost to the City will be approximately $27,300 annually for access to the MHC Network, which sum will be paid out of the Employee's Medical Benefit Trust, and will require no appropriation from the City beyond the Employee Benefit Costs already approved by the Council under the 1996-97 budget.

RESOLUTION BOOK NO. 23 - PAGE 378

D. RESOLUTION NO. 97-10 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENTS AND CHANGE ORDERS FOR THE MILLS RIVER REGIONAL WATER TREATMENT FACILITY PROJECT

Summary: The consideration of a resolution to authorize the City Manager to execute amendments and change orders for the Mills River Regional Water Treatment Facility.

In November, 1996, both the Asheville/Buncombe Water Authority and the City Council passed resolutions awarding bids to contractors for the Mills River Regional Water Treatment Facility Project.

Construction is now underway, and there is a need to be able to expedite necessary field work changes normally associated with a project of this scope, approximately $25,000,000. This would only be for such changes when they are within the approved budget amount. Any proposed amendment or change order which would exceed the budget would be brought back before the City Council for approval.

All amendments and change orders executed would be reported to the Water Authority and the City Council.

RESOLUTION BOOK NO. 23 - PAGE 379

E. MOTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH VISION OF ASHEVILLE-BUNCOMBE TO CONTINUE TO UTILIZE SPACE AT THE CITY DEVELOPMENT OFFICE AT 29 HAYWOOD STREET UNTIL JANUARY 1999

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Skalski and carried unanimously.

III. PUBLIC HEARINGS:

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 97-11 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACT CHANGE ORDERS FOR CONSTRUCTION, REPAIR, OR PROFESSIONAL WORK AND ALSO TO EXECUTE LEASE AGREEMENTS PROVIDED THAT SUCH AUTHORITY SHALL BE LIMITED TO THE AMOUNT BUDGETED FOR THE CONTRACT OR PURCHASE

City Manager Westbrook said that at the present time, the City Manager has the authority to execute construction or repair contracts up to $30,000 on behalf of the City. Likewise, the City Manager has the authority to purchase or lease supplies, materials, or equipment up to an expenditure of $20,000. Such contracts, purchases or leases in excess of these limits require approval and award by City Council. The

City's Fiscal Procedures Manual outlines the methods by which such contracts or lease agreements may be solicited and awarded.

As a part of the budget review process, the City Council approves specific projects and purchases for the upcoming fiscal year. Specific funds are appropriated for the project or purchase as a part of the budget. When bid proposals or quotes are received for contracts beyond the limits of the City Manager's authority, these projects are awarded by City Council.

From a process efficiency standpoint, it would be advantageous for the City Manager to have the authority to approve contract change orders for construction, repair, or professional contract work. It would also improve efficiency for the City Manager to be able to execute lease agreements for purchases on behalf of the City. Both of these items would be subject to the requirement that the change order or lease agreement be within the budgeted amount for the contract or purchase. Staff would propose to report to City Council on a quarterly basis all contract change orders or lease agreements executed by the City Manager within these contract or lease limits.

Staff recommends that the City Manager be authorized to execute contract change orders for construction, repair, or professional work and also to execute lease agreements provided that such authority shall be limited to the amount budgeted for the contract or purchase.

City Attorney Oast said that after further review of the policy, he suggested three changes to the policy, prior to Council's consideration.

Upon inquiry of Mr. H.K. Edgerton, Mayor Martin said that contracts will continue to go through the Minority Business Plan.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 97-11. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE 380

VI. OTHER BUSINESS:

A. COMMENTS BY MR. RALPH BISHOP

Upon inquiry of Mr. Ralph Bishop about whether the Police Chief or the City Manager is the chief law enforcement officer, City Attorney Oast read a portion of Section 24 of the City Charter describing the general duties of the manager. He noted that the manager has the authority to appoint the Police Chief who shall have supervision and control of the Police Department and all of the activities thereof.

B. CLAIMS

The following claims were received by the City of Asheville during the week of January 10-16, 1997: Chris Davis (Sanitation), Joseph Cannone (Water), Gary Pilkington (Streets), Chih Lung (Sanitation), Suzanne Wild (Streets), Howard Molton (Traffic Engineering) and Margaret Thesing (Streets).

The following claims have been received for the week of January 17-23, 1997: Garrett Edwards (Water), Emma Rogers (Water), Shane Jolliff (Streets) and James S. Bryson (Fire).

These claims have been referred to Asheville Claims Corporation for investigation.

C. CLOSED SESSION

At 5:22 p.m., Councilman Sellers moved to go into closed session to (1) consult with an attorney retained or hired by the City Council in order to preserve the attorney-client privilege between the Council and its attorney - statutory authorization is G.S. 143-318.11 (a) (3); and (2) establish or to instruct the City's staff or negotiating agents concerns the position to be taken by or on behalf of the City in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease. The location of the subject property is the public parking lot at the corner of Biltmore Avenue and Aston Street - statutory authorization is G.S. 143-381.11 (a) (5). This motion was seconded by Councilman Worley and carried unanimously.

At 5:40 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:40 p.m.

SCHOOL BOARD MEMBERS INFORMATIONAL MEETING

Councilman Hay, speaking on behalf of the entire City Council, explained that selecting members for the School Board is one of the very most important tasks that the City Council has and they would like to have the input from the community on what they would like to see in a School Board. He asked that School Board candidates present refrain from speaking because Council is asking for input on what the community would like to see in a School Board.

Ms. Martha Fawbush, President of the League of Women Voters of Asheville-Buncombe County, offered the following imperatives which must govern the decisions and actions of the School Board: (1) the Board will hopefully be filled with persons who live children and whose decisions will result largely from this love; (2) the Board must be concerned with providing optimum educational opportunities for all children; (3) diverse programs for children with special needs must be provided; (4) the Board must address the serious issue of racial balance in the Asheville school system; (5) the concerns of teachers must receive a high priority; (6) the Board must be responsive to the ideas and concerns of parents who often feel left out of decisions which profoundly affect the educational development of their children. She also asked that Council consider the motivations of the individuals seeking a position on the School Board. She then presented City Council with a detailed letter outlining the League's suggestions.

Ms. Sheron Craig, parent and employee of the Asheville City Schools, felt that School Board members should be honest, trustworthy, have integrity and make fair decisions. In addition (1) they should not use this position for partisan gain or for the benefit of special interest groups; (2) decisions should be based on available facts and independent judgment; (3) decisions made should move system forward, not

backwards; (4) each member should show support and protect the civil and human rights of all children and members of the school community - regardless of race, home environment, or economic status; (5) keep an open mind and accept and evaluate new concepts that will benefit all children; (6) they should learn how to get and present facts by devoting time, thought and study to proposed actions before acting on them; and (7) seek input from students first, employees and the community at large before making major decisions. She hoped Council would not make up their kinds about any one applicant before interviewing the rest.

Mr. James Cassara, teacher in the Asheville City Schools, suggested Board members have a real deep-seated trust for educators. He also felt that the Board members should be consistently and highly visible in the schools to see what is going on.

Mr. Dwight Hulse, retired superintendent from New York and volunteer at Asheville Middle School with their academy program for at-risk students, felt that beyond high visibility, the member must also be an action oriented person. He felt the members should be activists, well connected, and highly respected people who can bring the community in on the programs in the schools. They need to be able to make things happen in the school system.

Rev. O.T. Tomes said that City Council is in a unique position to lead people into the 21st Century as you deal with public education. We can no longer work with individualism and isolation if we are going to deal with public education with viability and integrity. We need to educate all of the children. He challenged Council to be sensitive as they search for new Board members. He felt that leadership has to come from the top and that makes a difference in the classroom and staff. Members must be committed to multi-cultural education and sensitivity, noting that there are teachers in the system today who do not have a commitment to African American students. He felt this was time for this community to stand up and say that we are committed to have a healthy, vibrant community for all our citizens.

Ms. Leni Sitnick thanked Council for the open interview process for the School Board members. She hoped that (1) Council's questions will be able to cull out the good things that are happening in the schools in order to recognize what is not working; (2) the questions would reflect on making sure that the members are open, accessible, competent, responsive, sensitive to the rich diversity in our schools, and respectful to all; (3) the members will represent everybody in the school system equally with a gain to improving education and improving a love of learning; (4) the members will have the courage to deal with concerns and problems that exist in our schools, like racism, and all forms of discrimination before the problems occur; (5) members have the knowledge to understand how to deal with problems and solve them before they get out of hand; (6) the members should be willing to create a forum for dialog in this community that values and respects teachers, parents and students, noting that the dialog should be positive and not punitive; (7) the members have creative ideas about ways to inspire parents to become more involved with their children and with the teachers of their children; (8) the members should take a hands-on approach to finding out what's in the schools; and (9) the members appointed should be willing to have increased communication with City Council. She asked that Council consider the pros and cons of both an appointed school board versus an elected school board. An appointed school board would guarantee proper, equal and balanced representation and an elected school board might create more accountability - perhaps both are possible.

Ms. Pamela Cauble, teacher at Claxton Elementary, felt the top priority for a board member is that they have what is best for the children and the community in mind for now and for the future. She hoped the members who are chosen will disagree and then reach a consensus. The members need to have opinions and they should not be afraid to share them. The members should have knowledge about issues that are facing schools. She felt the board members should be able to actively listen to the community at large, parents and teachers. They need to be good judges of character and policy-makers.

Mr. Mike Lewis felt that since we are on the threshold of change and since there have been several goals identified, in particular the ABC Plan, Vision 2000 at Asheville High, the Asheville-Buncombe VISION, and the Listening Project, we need a school board that will work to achieve those goals. He felt we needed a school board which will lead and be the spearhead and champion of education in the community. The members need to be pro-active, seen in the schools, and they need to be in contact with our legislators so that they can lobby them for the welfare of our schools. The members need to talk to teachers and they must be concerned with parental involvement. He felt that the members need to look hard at minority achievement and take positive steps in that area.

Ms. Donna Smith, parent of children in the school system, felt the most important attribute the board members needs to have is the ability to vote with conscience and not necessarily with the group. The need to have great energy for the job. The members need to know that they may be contacted by irate parents at inconvenient times. They need to be visible in the community. Even though the position is demanding and unpaid, the positions are very important. The member should actively listen to the community and their concerns. She felt teachers need to be able to get what they need to get their jobs done. She felt the member should be someone who will take the extra time to do the research to keep abreast on what is happening in the field of education and who has some understanding of child development. It is important to be knowledgeable and to fully understand the issues voted on. The knowledge and background will help the school board member know which questions to ask so that the best decisions can be made for our children's well-being.

Ms. Rosaleen Fetty felt the member needed to have moral courage who puts their conscience ahead of personal popularity and who put the poor and needy children ahead of rich and privileged children. The person should promote a classical education for all students and fights intrusion of technical education at least during the first 12 years of school. The member's primary responsibility is to find funds and staff for the expert teaching of reading to every student. She felt the member should communicate with the school staff.

Ms. Ann Craig brought to Council's attention a book entitled "The Power of their Ideas - Lessons for America from a Small School in Harlem". It's about school restructuring. She would like to see board members that study and research ways that schools are being restructured around the country for student success.

Ms. Minnie Jones, grandparent, hoped that the board member (1) will have an open mind with equal rights and justice for all; (2) will recognize that all children should get the best education possible; (3) will listen to the parents, regardless of whether they are rich or poor; (4) will support the Superintendent; and (5) will work with City Council and the concerned community.

Magdalen Burleson
CITY CLERK

MAYOR

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Tuesday - February 4, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Report for Disposal of City Owned Personal Property

Summary: Resolution 85-99 adopted on June 25, 1985, established procedures for disposing of personal property valued at less than $500. Pursuant to these procedures, the resolution identifies property disposals for the Parks & Recreation Department, the Water Resources Department and the Fleet Management Division during the period of July 1, 1996, through December 31, 1996. Revenue from these disposals totals $951.53.

Asheville-Buncombe Water Authority Recommendations for awarding bids for the South Buncombe/Fairview Water System Improvements - Phase II

Summary: The consideration of awarding the bid for the South Buncombe/Fairview Water System Improvements - Phase II to Hobson Construction Company, Inc.

Sealed bids were received on January 8, 1997, in accordance with N. C. Gen. Stat. sec. 143-129 and with the City of Asheville's Minority Business Plan. Four bids were received with Hobson Construction Company being the lowest responsible bidder. The Water Authority approved the awarding of the bid to Hobson Construction Company, Inc. in the amount of $175,419.50. Following is a summary of the bid totals received for this project:

Hobson Construction Company	$ 175,419.50
First South Utilities	186,212.50
Buckeye Construction Company	242,550.00
*Cooper Construction Company	489,994.00

* Cooper Construction Company was the apparent low bidder at the time of the opening with a price of $172,264.00. However, their bid contained a mathematical error when corrected resulted in the total shown above.

Staff recommends approval of the award of this project to Hobson Construction Company in the bid amount of $175,419.50.

Asheville-Buncombe Water Authority Recommendations for awarding bids for the South Asheville/South Buncombe Pipeline Replacement Project - Phase II

Summary: The consideration of awarding the bid for the South Asheville/South Buncombe Pipeline Replacement Project Phase II to Wheeler Construction Company, Inc.

Sealed bids were received on December 17, 1996, in accordance with N. C. Gen. Stat. sec. 143-129 and with the City of Asheville's Minority Business Plan. Six bids were received with Wheeler Construction Company

being the lowest responsible bidder. The Water Authority approved the awarding of the bid to Wheeler Construction Company, Inc. in the amount of $949,634.00. Following is a summary of the bid totals received for this project:

Wheeler Construction Company	$ 949,634.00
Cooper Construction Company	974,009.32
Hobson Construction Company	1,012,875.00
Buckeye Construction Company	1,034,991.00
Stepp Construction Company	1,107,625.00
First South Utilities	1,130,595.00

Staff recommends approval of the award of this project to Wheeler Construction Company in the bid amount of $949,634.00.

Asheville-Buncombe Water Authority Recommendations for awarding bids for the Engineering Services Contracts for the Phase I Master Plan Improvement Projects

Summary: The consideration of awarding engineering services contracts for Phase I Master Plan Improvements Projects.

In December 1996, the Authority authorized the Director and the Authority's attorney to negotiate Engineering Services Contracts for the approved Phase I Master Plan Improvement Projects. The solicitation for engineering services was through a request for proposals process. Negotiations have been completed with the following companies:

Project	Company
West Asheville Reservoir	McGill Associates
ISO Pipeline Improvements	McGill Associates
US 19&23 Connector	ENG/6 Associates
Fairview Reservoir & Pipeline	W.G. Lapsley & Assoc.
Newfound Mtn. Reservoir & Pipeline	McGill Associates

The Water Authority approved awarding contracts to ENG/6A in the amount not to exceed $58,835.00; W.G. Lapsley & Associates in the amount not to exceed $90,000.00; and McGill Associates in the amount not to exceed $62,750.00 for the Leicester Proposal, not to exceed $47,900.00 for the West Asheville Proposal, and not to exceed $51,600.00 for the Central Business District.

Staff recommends approval of the award for engineering services contracts to the aforementioned companies for the Phase I Master Plan Improvements Projects.

Councilman Cloninger said that he had a conflict of interest on this item and asked that it not be placed on the Consent Agenda at the next formal meeting.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda, except for the one mentioned by Councilman Cloninger.

BUDGET AMENDMENT REGARDING DEAGAN TOWER CHIMES ATOP CITY HALL BUILDING

Ms. Maggie O'Connor, Historic Resources Director, said that staff is presenting the estimated budget for the restoration of the Deagan Tower Chimes atop the Asheville City Building.

Since January 1995, the Friends of the Chimes has worked to secure funds for the restoration of the Deagan Tower Chimes. Hundreds of citizens and organizations including the school children of Asheville and Buncombe County have contributed their dollars and pennies for this important restoration project. To date $21,493 has been raised.

The total estimated costs for restoration is $26,400, this includes restoration of the chimes and the continuous loop player rolls as well as the creation of new continuous loop player rolls. Because the strikers have not been inspected the costs may rise, depending on their condition. The estimated budget reflects this unknown cost factor with a contingency component of $7,400.

The Friends of the Chimes has set up an endowment fund for the continued maintenance of the Deagan Tower Chimes. The endowment fund is in a City of Asheville Trust & Agency account specifically for the chimes. The account is strictly regulated and can only be used for the maintenance and repair of the chimes. After the restoration work is completed any unused funds will go into the endowment fund.

Ms. O'Connor said that the chimes will now be picked up in August instead of April and they hoped to have them up and running by November 11, 1997, the day in which they will dedicate the chimes.

Mayor Martin said that he would be happy to donate $100 to the Deagan Chimes Restoration Project. Councilman Cloninger said that he would match the Mayor's contribution.

Councilman Hay said that Asheville-Buncombe Discovery went out of business several years ago and in cleaning up their books, they located $863.00. The Board felt the Chimes Project was the appropriate place to donate the money, so they did. He felt that was a nice legacy of all the great things Asheville-Buncombe Discovery did over the years.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

STATUS OF UNIFIED DEVELOPMENT ORDINANCE ("UDO") PROCESS

Councilman Cloninger said that the Planning & Zoning Commission ("Commission) has unanimously adopted a resolution requesting 30 additional days within which to render their recommendation to the City Council on the UDO. He felt the Commission members are making a good faith effort to get through with their review. Although he understood that all Council was anxious to move as quickly as possible on the UDO adoption, he felt sure they would be fair and reasonable and grant their request. He was inclined to accept the revised schedule and felt Council needed a firm commitment from the Commission that they would have their review completed in that 30 day time extension. The Commission did agreed to that and thus adopted a resolution to that effect.

Mayor Martin said that although he was disappointed that the Council could not remain on schedule (with final adoption by City Council on April 22, 1997), he did want everyone to have sufficient time to give input.

Upon inquiry of Councilman Skalski, Councilman Cloninger said that 4 out of 7 Commission members asked that the schedule be moved forward for the 30 days (with the revised City Council adoption date of May 27, 1997). However, the resolution adopted by the Commission asking for

the 30 day postponement was unanimously adopted. It was his understanding that the Commission just needed more time to review the text.

Councilman Cloninger felt it might be a good idea for the Mayor to write the Commission Chairman and reaffirm Council's strong desire for them to finish their review on or before the 30 day extension.

Upon inquiry of Vice-Mayor Field, Planning & Development Director Julia Cogburn said that there is nothing in the current ordinance that allows City Council to take action without an approval or a denial from the Planning & Zoning Commission. However, the new UDO does address this issue.

Because the revised schedule needs to be disseminated quickly, Councilman Worley moved to adopt the revised UDO Review and Adoption Schedule with final adoption date being May 27, 1997. This motion was seconded by Councilman Cloninger.

Councilman Hay felt that the community should understand that there is a significant amount of legal advertising necessary when a date certain has been set regarding scheduling public hearings.

Vice-Mayor Field felt that the Commission has had time within which to review the information, however, she understands that they are sincere in their request.

Upon inquiry of Councilman Skalski, Ms. Cogburn said that the Commission members met one time in December and they have been meeting twice a week since the first of the year. Councilman Worley also stated that he has attended several of the Commission's worksessions when they had been reviewing the UDO and felt the Commission has been diligent in their review but it has been slow-going.

Councilman Skalski said that he would vote against this revised schedule at this time and would talk to Commission members about their request.

Councilman Cloninger stated that none of Council was happy to postpone the adoption but the Commission is a volunteer board and the Council needs to be reasonable.

Upon inquiry of Vice-Mayor Field, Senior Planner Gerald Green said that the Commission might be further along in the review process than originally thought. He felt that there was an opportunity with the 30 additional days that staff can do more research on the questions City Council has already raised.

Mayor Martin then asked for a voice vote on the motion to adopt the Revised UDO Review and Adoption Schedule. Said motion passed on a 6-1 vote, with Councilman Skalski voting "no".

BOARDS AND COMMISSIONS

Water Authority

City Council instructed the City Clerk to arrange interviews with the following persons for a vacancy on the Asheville-Buncombe Water Authority: J. Lewis Daniels, Nelda Holder and Norma Price.

Civic Center Commission

City Council instructed the City Clerk to arrange interviews with the following persons for vacancies on the Asheville Area Civic Center Commission: Joyce Dorr, Douglas Haldane, Sherry Wilson and Carl Mumpower.

School Board

Vice-Mayor Field moved to continue with the policy that City Council only consider applicants from the Asheville School District (in addition to their being City residents) for appointments to the Asheville School Board. This motion was seconded by Councilman Worley and carried unanimously.

City Council instructed the City Clerk to arrange interviews with the following persons for vacancies on the Asheville School Board: John Legerton, William Petz, Mary Downes, Susan Fisher, Lewis Isaac, Pat McClellan, Hugh McCollum, H.K. Edgerton, Susan Paterson, Joe Ferikes, Marsha Bate, Kathryn Spencer, Denise Goodson and Jan Howard.

OTHER ITEMS

Councilman Cloninger suggested Council invite Dr. Karen Campbell, Superintendent of the Asheville City Schools, to an upcoming worksession to hear what her vision is for the Asheville City School System.

Councilman Hay said that the City Schools Foundation has contacted him and has requested that the Institute of Government be invited to a worksession in order to present a program on the Role of the School Board. He suggested Tuesday, February 25, 1997, at 3:30 p.m., in the First Floor Conference Room in City Hall. He felt that prior to that presentation, it would be a good time for Dr. Campbell to come and review her vision for the schools.

Following a suggestion of Councilman Cloninger, Mayor Martin said that he would work with the City Manager on inviting different groups and organizations to Council worksessions.

At the request of Councilman Cloninger, Planning & Development Director Julia Cogburn updated Council on the status of the telecommunication tower ordinance amendment as it relates to the Blue Ridge Parkway request. Ms. Cogburn said that other amendments have been brought to their attention that have some merit, in addition to the Blue Ridge Parkway request, have come to their attention and that is one reason the delay in bringing it to Council. She will, however, work toward bringing the original Blue Ridge Parkway amendment to Council in March and will address the other amendments shortly thereafter.

Upon inquiry of Mr. H.K. Edgerton about including the NAACP as an organization in the City Business and Development Commission, Vice-Mayor Field (Chairman of the Council Boards & Commissions Committee) said that several organizations have made the same request and the Committee will be looking at all the requests in their next meeting.

CLOSED SESSION

At 4:10 p.m., Councilman Worley moved to go into closed session for the following reasons: (1) to prevent the disclosure of information that is privileged or confidential pursuant to the laws of this State or not considered a public record within the meaning of Chapter 132 of the General Statutes. The statutes pursuant to which this information is

confidential is G.S. 132-1.2 and 66-152 (3) relating to trade secrets and G.S. 160A-168 relating to the confidentiality of personnel records; and (2) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body. The parties in the matter about which the Council expects to receive advice are the Historic Resources Commission, the Board of Adjustment and the Housing Authority. This motion was seconded by Councilman Sellers and carried unanimously.

At 5:15 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:15 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

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Tuesday, February 4, 1997 - 7:00 p.m.
West Asheville Community Center

Community Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Mayor Martin said that he hoped the new format by the City was successful at this community meeting. He summarized by saying that from 5:00 p.m. - 7:00 p.m. City staff was available at the East Asheville Community Center to meet with the community on any issue and to demonstrate the possibilities of communities and City Hall linking up electronically. He said at 6:00 p.m. Councilmen Cloninger and Worley were available to answer questions relative to the Unified Development Ordinance. And then the City Council community meeting began at 7:00 p.m. He stressed that City Council is committed to Community Oriented Government.

Ms. Robin Westbrook, Community and Public Information Officer, gave a brief presentation on how communities will be able to access information from City government on a computer located at the community center. She also outlined some items on the Council's commitment to Community Oriented Government.

The following topics were raised by residents and addressed by City Council and City staff: need for additional police patrol throughout community; need to complete paving of Marborough Drive; excessive speeding on Riverview Drive, River Hill Road and Crockett Street; need for trash pickup in entire community, in particular East Vale Shopping Center, around Asheville Mall, area around Haw Creek exit onto I-240, behind Oteen Ingles; request for a dead-end sign at Oteen

Park Place; need to investigate open drainage ditch behind Oteen Ingles; request that the park in Haw Creek be given a higher priority since the community is committing over $40,000 in addition to a grant of $2,250 recently received; request for a reimbursement in property taxes for gated Cloister residents since they do not require City garbage pick-up and other basic City services; request for Council to sever the mapping of the UDO from the other steps involved and to prepare UDO maps that conform with existing uses; request for Council to consider pedestrian studies; and request for Council to work with the N.C. Dept. of transportation for sidewalks along Tunnel Road.

Mayor Martin adjourned the meeting at 8:20 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - February 11, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. STUDENT RECOGNITION

Mayor Martin recognized students from Western Carolina University in the Masters of Public Administration Program.

B. ASHEVILLE POLICE DEPARTMENT'S COMMUNITY SERVICE AWARD

Police Chief Will Annarino presented Mayor Martin with the Asheville Police Department's Community Service Award for his leadership and dedication to the Mayor's Drug Forum.

Mayor Martin thanked the Police Chief but noted that the Police Department's efforts along with other organizations contributed significantly to the success of the programs which arose out of the forum.

C. PROCLAMATION PROCLAIMING FEBRUARY, 1997, AS "BLACK HISTORY MONTH"

Mayor Martin read a proclamation proclaiming the month of February, 1997, as "Black History Month" in the City of Asheville and presented it to Mr. H.K. Edgerton, local NAACP Chapter President. Mr. Edgerton introduced the Youth in Education members of the NAACP.

II. CONSENT:

At the request of Councilman Skalski, Item E. from the Resolutions & Motions Consent Agenda was pulled off for individual discussion.

City Attorney Oast asked that the bids be recorded in the minutes for Items C. and D.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 28, 1997; AND THE WORKSESSION AND COMMUNITY MEETING HELD ON FEBRUARY 4, 1997

B. RESOLUTION NO. 97-12 - RESOLUTION ACCEPTING A REPORT ON THE DISPOSAL OF CITY-OWNED PERSONAL PROPERTY

Summary: Resolution 85-99 adopted on June 25, 1985, established procedures for disposing of personal property valued at less than $500. Pursuant to these procedures, the resolution identifies property disposals for the Parks & Recreation Department, the Water Resources

Department and the Fleet Management Division during the period of July 1, 1996, through December 31, 1996. Revenue from these disposals totals $951.53.

RESOLUTION BOOK NO. 24 - PAGE 1

C. **RESOLUTION NO. 97-13 - RESOLUTION ADOPTING THE RECOMMENDATIONS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY AND AWARDING THE BIDS FOR THE SOUTH BUNCOMBE/FAIRVIEW WATER SYSTEM IMPROVEMENTS - PHASE II**

Summary: The consideration of awarding the bid for the South Buncombe/Fairview Water System Improvements - Phase II to Hobson Construction Company, Inc.

Sealed bids were received on January 8, 1997, in accordance with N. C. Gen. Stat. sec. 143-129 and with the City of Asheville's Minority Business Plan. Four bids were received with Hobson Construction Company being the lowest responsible bidder. The Water Authority approved the awarding of the bid to Hobson Construction Company, Inc. in the amount of $175,419.50. Following is a summary of the bid totals received for this project:

Hobson Construction Company	$ 175,419.50
First South Utilities	186,212.50
Buckeye Construction Company	242,550.00
*Cooper Construction Company	489,994.00

* Cooper Construction Company was the apparent low bidder at the time of the opening with a price of $172,264.00. However, their bid contained a mathematical error when corrected resulted in the total shown above.

Staff recommends approval of the award of this project to Hobson Construction Company in the bid amount of $175,419.50.

RESOLUTION BOOK NO. 24 - PAGE 3

D. **RESOLUTION NO. 97-14 - RESOLUTION ADOPTING THE RECOMMENDATIONS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY AND AWARDING THE BIDS FOR THE SOUTH ASHEVILLE/SOUTH BUNCOMBE PIPELINE REPLACEMENT PROJECT - PHASE II**

Summary: The consideration of awarding the bid for the South Asheville/South Buncombe Pipeline Replacement Project Phase II to Wheeler Construction Company, Inc.

Sealed bids were received on December 17, 1996, in accordance with N. C. Gen. Stat. sec. 143-129 and with the City of Asheville's Minority Business Plan. Six bids were received with Wheeler Construction Company being the lowest responsible bidder. The Water Authority approved the awarding of the bid to Wheeler Construction Company, Inc. in the amount of $949,634.00. Following is a summary of the bid totals received for this project:

Wheeler Construction Company	$ 949,634.00
Cooper Construction Company	974,009.32
Hobson Construction Company	1,012,875.00
Buckeye Construction Company	1,034,991.00
Stepp Construction Company	1,107,625.00
First South Utilities	1,130,595.00

Staff recommends approval of the award of this project to Wheeler Construction Company in the bid amount of $949,634.00.

RESOLUTION BOOK NO. 23 - PAGE 4

E. MOTION SETTING A PUBLIC HEARING ON FEBRUARY 25, 1997, TO AMEND THE ZONING ORDINANCE TO ESTABLISH A NEW OFFICE BUSINESS DISTRICT

This item was removed from the Consent Agenda to be discussed individually.

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Sellers and carried unanimously.

Ordinance:

A. ORDINANCE NO. 2344 - BUDGET AMENDMENT RELATIVE TO THE RESTORATION OF THE DEAGAN TOWER CHIMES ATOP THE ASHEVILLE CITY HALL BUILDING

Summary: This budget amendment, in the amount of $26,400, is relative to the restoration of the Deagan Tower Chimes atop the Asheville City Hall Building.

Councilman Cloninger was pleased to note that $21,493 has been raised privately to go toward this $26,400. He appreciated the efforts of the private individuals who have donated their time and money to this effort. He looked forward to the strong possibility of the rest of the funds be raised privately.

Councilman Skalski thanked HRC Director Maggie O'Connor for her efforts in raising the money for the Chimes Project.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance on the Ordinance Consent Agenda and it will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Hay.

On a roll call vote of 7-0, Ordinance No. 2344 was unanimously adopted.

ORDINANCE BOOK NO. 16 - PAGE 144

ITEM PULLED FROM CONSENT AGENDA FOR DISCUSSION

MOTION SETTING A PUBLIC HEARING ON FEBRUARY 25, 1997, TO AMEND THE ZONING ORDINANCE TO ESTABLISH A NEW OFFICE BUSINESS DISTRICT

When Councilman Skalski asked why this was being introduced at this time when the UDO is soon to be adopted, Planning & Development Director Julia Cogburn said that staff has received several requests, however, there is one request in particular, where they think the application of this district would be appropriate or at least worth exploring. That is why the Planning staff is introducing this as a

potential tool in looking at areas for zoning and allowing certain types of uses. She said that this will be part of the UDO ultimately, but there is some urgency in a particular potential application of this district. Since it will ultimately be part of the UDO, staff doesn't think that it's inappropriate to be introduced at this point.

She noted that this will have a relationship ultimately to the Hendersonville Road zoning potentially, but this is only scheduling a public hearing to look at the possibility of introducing into the zoning ordinance a new district that would be Office/Business District.

Councilman Cloninger moved to set a public hearing on February 25, 1997, to consider adding a new Office/Business District to the Zoning Ordinance. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Skalski voting "no".

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE AMENDING THE ZONING ORDINANCE TO REZONE THAT PORTION OF THE LOT IDENTIFIED AS PIN NO. 9655.09-15-2013, WHICH IS NOW ZONED OI OFFICE INSTITUTIONAL DISTRICT BE REZONED TO R-2 RESIDENTIAL DISTRICT

ORDINANCE NO. 2345 - AMENDMENT TO ZONING ORDINANCE TO REZONE THAT PORTION OF THE LOT IDENTIFIED AS PIN NO. 9655.09-15-2013, WHICH IS NOW ZONED OI OFFICE INSTITUTIONAL DISTRICT, BE REZONED TO R-2 RESIDENTIAL DISTRICT

Mayor Martin said that this public hearing was rescheduled from January 14, 1997, in order to give staff additional time to work with the property owners.

Mayor Martin opened the public hearing at 5:37 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Erin McLoughlin, Urban Planner, said that this is a continuation of a zoning study which was postponed on January 14, 1997, meeting. This study was to examine approximately 10 acres west of Hendersonville Road and east of Blake Mountain Estates. The two parcels in the study are PIN Nos. 9655-09-15-0415 and 9655-09-15-2013. Both parcels are currently zoned more than one zoning classification. Staff was directed to study the OI zoning of these two parcels. The City Council referred this study to the Planning & Zoning Commission ("Commission"). At their November 6, 1996, meeting, the Commission voted 4-3 that a portion of PIN No. 9655-09-15-2013 be rezoned from OI to R-2. At that time, Planning staff recommended that the entire portion of the OI zoning change from OI to R-2. The reasons for this recommendation were as follows:

1. This recommendation was consistent with past staff recommendations regarding the zoning of this area.

2. The 2010 plan indicates low density residential for this area.

3. Staff considered current development, topography, and access of this area and felt that low to medium density development would serve as a good transition for this area.

4. The original zoning of this area was R-2, a low to medium density district.

Staff has had several months to review this area. They considered the 2010 Plan infrastructure, topography, current development and access. They feel that this area is ideal for a transition between the single family homes to the west and the commercial uses to the east. They will be able to address this transition in the UDO process.

With the use of maps, she reviewed the current zoning of the area, the exact two parcels studied, the current zoning of each of the two parcels studied, the Planning & Zoning Commission's recommendation (an approximate 2 acre portion of the lot identified as PIN No. 9655.09-15-2013 which is now zoned OI, be rezoned to R-2), and the recommended UDO zoning. She explained that the recommended UDO zoning is basically very consistent with the recommendation that the Commission recommended.

She tried to explain the controversy over what the 2010 Plan actually calls for. She said the reason for this controversy is that this area falls right in the middle of four dividing lines. The area in question meets four different zones - the Blake Mountain Estates area falls in the low density residential, immediately north is medium density residential district, to the east is commercial uses, and to the south is institutional. She also noted that the scale on the 2010 Plan is so small that it is difficult to identify a specific tract.

When Councilman Skalski asked when the World Servers tract was zoned OI, Ms. McLoughlin said that when the area was annexed in about 1989, the World Servers tract was zoned OI because their building was on that property and to zone it otherwise would make it a non-conforming use. She further stated that the southern five acres (Morosani tract) was rezoned to OI in 1991.

Councilman Skalski noted that the 2010 Plan was adopted in 1987, pointing out that at the time the 2010 Plan was published, the southern five acres were then zoned R-2.

Councilman Cloninger noted that with the Commission's recommendation is essentially adding a buffer of R-2 in an area that is currently OI and that buffer would protect a portion of the Blake Mountain Estates that's contiguous with the current OI property. He felt that Council can today take a stop-gap measure to tide them over until they pass the UDO. The action taken today will in no way tie their hands as to what they do in the future. Alternative zoning arrangements will still be looked at in that area once Council begins looking at the UDO mapping. In the UDO mapping process there will be more tools available and more categories to choose from in how the area is zoned.

Councilman Hay felt that Council needed to do something today to bridge us now until the UDO is adopted in terms of development. He wondered if adoption of the Commission's recommendation would accomplish that. Councilman Cloninger felt that the Commission's recommendation is the best thing for Council to adopt at this time until the area is addressed more comprehensively through the UDO process.

Councilman Hay was pleased that staff was looking ahead and doing something consistent with the UDO. He wondered whether the OI District and the new proposed Office Districts in the UDO are the same. Ms. McLoughlin replied that they not. They are similar, but not the same.

When Councilman Skalski asked why this is being rezoned at this time if the UDO process will give more tools, Councilman Cloninger said that this is a temporary rezoning. In his opinion Council wants to protect the Blake Mountain Estates neighborhood, but at the same time be fair and try to have a minimal impact on the surrounding property owners as well. He felt this was the fairest way to provide a temporary protection until the matter can be addressed more comprehensively in the UDO.

Councilman Skalski reminded Council of his original position regarding this matter several months ago. His position was to do an small area plan to resolve the issues, not just temporary measures.

Councilman Cloninger stated that the UDO is the comprehensive plan of the area.

City Attorney Oast reminded Council that they should disregard any mention of specific uses for the properties in question. In this rezoning request, Council need to consider all of the uses allowed in the zoning designation.

Ms. Barbara Darden, representative of Mediation Groups Inc. as their real estate broker and also representative of World Servers, said that they have signed a contract with Arbor Investments from Atlanta for an assistance in living complex to be developed on that property. It's a complex of 60 units for the elderly. This requires that the zoning remain OI or OB, if it comes under that designation. They have stressed their attraction to the property was primarily because of the trees and the environment that exists there and is conducive to their project. They feel it is a good transition purpose between the commercial and the R-2 zone. They have received a phone call from a development company in Roanoka, Virginia, that is interested in purchasing Mr. Shuford's property which is the property south of them and they, too, want to do an assistance in living center which would complement the one being built on the World Servers' property. It is their understanding that Arbor Investments is submitting plans shortly and they will be contacted by the development company from Virginia to coordinate their purposes. They feel that the use of the land for this purpose should be acceptable to the residents to the rear of their property and they support the zoning that has been recommended by the Planning & Zoning Commission at this time.

Ms. Laurel Eide read the following prepared statement:

"My name is Laurel Eide. Do you know the most often asked question I hear daily?? Have you sold your house yet? It will be 3 years in May that my house has been on the market. Three long years that my husband has been commuting back and forth to Greenville every day. And 3 long years that no one wants to buy my house. Why?? Because a previous City Council has backed me into a corner. I am the only Asheville resident that lives in a single family neighborhood that has the misfortune of having OI zoning touching their property. Yes, I have the possibility of having 32 units per acre residential density with no height restriction within 20 feet of my property where I live in a single family residence. Would anyone on City Council want this situation for themselves??

When I do get lucky enough for a Realtor to show my house, they ask one question immediately. What is the zoning of the undeveloped property behind your house?? My response kills any possible sale because no one wants that harsh zoning in their back yard. I have no choice but to tell the truth to any prospective buyer.

I personally feel that the City of Asheville has betrayed their public trust. The previous City Council violated the 2010 Plan in zoning this property OI. They breached their contract with the citizens of Asheville. My personal rights as an Asheville citizen and taxpayer have been violated, as well. My quality of life that the City of Asheville promotes has been destroyed. What quality of life do I now have?? My health and well being has been affected. My family life has taken a back seat because of all the past months of work related to this present OI situation. My days have been filled with stress, tension and humiliation. The present City Council, who ran on a platform of being pro-neighborhood, have the opportunity to right this travesty of injustice.

The injustice of this OI zoning has made me a stronger individual. There is not a person in this room that I am afraid to stand up to regarding this unconscionable zoning that has been put in my back yard. I have the desire, the knowledge and the financial backing to continue this fight until justice prevails for the neighborhoods of South Asheville.

I have spent the last few years of my life opposing this "spot zoning" that many feel was illegal. The Planning Department Staff has repeatedly recommended denial of OI zoning in this area. I have been cheated out of my property rights by the City of Asheville. My property has been devalued by the City of Asheville by its previous actions. The OI property in question was zoned OI on the basis of proposed plans that never materialized. The only things that have materialized are "For Sale" signs on both properties to take advantage of the increase in their property values while my property values have been devastated. And they talk about protecting their property values. What about my property values?? What about my rights??

Here I stand begging for crumbs. Well, I don't want crumbs. I want justice. I want City Council to dispense justice to the neighborhoods of South Asheville and me personally.

I want the OI - all 10 acres - returned back to its originally intended R-2 zoning. The present property owners have never followed through on their promises and the zoning should be brought back in compliance with the 2010 Plan.

Let this be written into the City Council minutes and distributed to the Asheville-Citizen Times, Mountain Express, Mountain Sentinel, the CAN newsletter and the new Community Voice that I, Laurel Eide, request this day, February 11, 1997, a public and written apology from the City of Asheville.

I request a written and public explanation as to the reasons for the placement of this OI zoning which occurred in the past. I want to know who will take responsibility for the hardships that my family and I have endured for the last 3 years. My family and I have been held hostage by the actions of the previous City Council and have been unable to relocate to the city of my husband's employer.

Mr. Mayor, you told me almost one year ago while standing on my property..... "This OI was clearly "spot zoned." This OI clearly should never have happened. This was clearly political, however, I was not in office at that time."

Mr. Mayor, you are in office now. You have the opportunity to right this wrong and give the residents of South Asheville the justice that they seek.

What did Mr. Morosani do to get the favors bestowed upon him while the 2010 Plan was gutted in South Asheville. Mr. Morosani never did anything except put a "For Sale" sign on the property after getting his OI rezoning. According to Mr. Shuford, Mr. Morosani hasn't made a payment on the property in 3 years while he continues to market the property in hopes of a large profit. Where is the justice here??

I expect the OI - all of it to be returned to its originally planned R-2 zoning. Put the property in conformance with the 2010 Plan AND the Planning Department Staff's recommendations. Why can't City Council admit that the City made a mistake in the past and take this opportunity to right a wrong???

I hope that City Council will no longer listen to the pie in the sky promises of developers who get their rezoning, and never follow through on their promises. Improper zoning results in a cancerous growth of more improper zoning. Owners of adjacent undeveloped properties want their properties rezoned to increase their property values while decreasing the values of the adjacent neighborhoods.

One wrong rezoning can affect the whole neighborhood adversely and cause the whole community to rise up in protest. If a mistake is made by the City, they should correct it.

In conclusion, I think City Council members are honorable and decent people that want to do the right thing. The only honorable, decent and morally right decision is to rezone the whole 01 tract back to R-2 and give South Asheville and Laurel Eide the justice that we have worked so hard to achieve.

Thank you for your time Mr. Mayor and City Council members."

Councilman Cloninger pointed out that this rezoning to OI was by a previous City Council. When the issue came before this Council, they repeatedly met and tried to work something out that was fair to all concerned. He did feel that what Council is proposing to do today will be fair. He stressed that during the UDO process, Council very much wants to work out a zoning classification through that area that will be fair to all the concerned property owners. He was confident that it can be done.

Councilman Skalski said that several months ago he and Councilman Sellers voted to have a small area plan developed for this area. The majority of the citizens in this area circulated a petition asking City Council to prepare the plan. He noted that the Haw Creek small area plan done last year was done in about six weeks and it has been five months since he first requested a small area plan for this area. He felt this area was small compared to the Haw Creek area and the plan would not have taken as long. In his opinion, Council is making unilateral decisions on peoples lives without allowing them to have due process. He felt that at the very least, Council should rezone this R-2 and wait for the UDO or at least do a small area plan.

Vice-Mayor Field noted that if Council were to rezone the two five acre tracts to R-2, they would be changing the World Servers OI tract that has been zoned that way since it was annexed.

Councilman Hay wondered if Council would be willing to rezone the five acre Morosani tract to R-2 since the ownership of that tract is unsettled at this time and leave the World Servers tract zoned OI.

Vice-Mayor Field was concerned about having R-2, which is a low density residential area, abut directly to a commercial highway zone. She felt that the transition of OI between the two zones makes a lot more sense than changing the Morosani tract back to R-2. She saw no reason for changing the World Servers property to R-2 since it never was R-2.

Councilman Skalski didn't think it was the prerogative of this City Council to tell the people in South Asheville how they should live. There are options in our legal system to allow the residents to do a small area plan. He reiterated his position to have a small area plan developed for that area, as requested by the petition presented to City Council from the neighborhood five months ago.

Councilman Cloninger said that even if Council would have done a small area plan, they would still be sitting where they are today trying to decide what to do on a temporary basis because the small area plan would not have been applicable to the UDO. There would be different zoning classifications. Even with a small area plan Council would have looked to provide a buffer for Blake Mountain Estates, which we are doing with the Planning & Zoning Commission recommendation.

When Councilman Skalski wondered if the small area plan done in Haw Creek was a waste of time, Councilman Cloninger replied that it was not a waste of time in that Council made a temporary rezoning in order to preserve the status quo until the UDO was adopted. That is exactly what Council is hoping to do today.

Councilman Hay remembered that staff said if they undertook a small area plan at that time, it would have postponed the UDO another month.

Councilman Skalski felt that when you are affecting peoples lives, that is not an acceptable answer, especially since the UDO has already been delayed one more month.

Mr. Richard Green read the following prepared statement:

"My name is Richard Green. I live at 203 Blake Mountain Estates, about 100 yards from the property in question. I am here to speak on behalf of the Coalition of South Asheville Neighborhoods.

In 1987, City Council adopted the 2010 Plan as an official public planning document to guide the development of Asheville for the following 25 years. City Council made a contract with the Asheville residents. We're 10 years into that plan, less than half-way. The 2010 Plan's vision was for a small strip of OI south of Ingles along, Hendersonville Road with R-2 zoning behind as a transition to the single family neighborhoods. Over the last 10 years the plan has repeatedly been violated. There is CH (Commercial Highway) zoning at the road now and OI has been jammed against the single family neighborhoods in the rear.

When the World Servers property was annexed into the City they were given OI zoning on the basis of proposed future development of their educational complex. It never happened. Their property is now under contract to a developer who wishes to utilize the existing permitted 32 per acre residential density in an area that the 2010 Plan and the Planning Department have consistently recommended for 6 per acre density.

When Mr. Morosani bought the Shuford property, it had R-2 zoning in accordance with the 2010 Plan. Subsequently, he asked for an OI rezoning so he could sell the property to the World Servers who wished to expand their educational facility. It never happened. The only thing that happened was a "For Sale" sign and a higher asking price for the property.

The Planning Department Staff has consistently recommended over the years that this property remain R-2 and as recently as several months completed their zoning study on this OI tract. Again, they recommended that the property be R-2 in its entirety.

The citizens of South Asheville request that City Council honor their commitment to the 2010 Plan as well as follow the recommendations of the zoning study that City Council themselves initiated. City Council members ran for election on a pro-neighborhood slate and now have the opportunity to demonstrate that their election rhetoric were not hollow promises. South Asheville residents request that the entire OI tract be rezoned to R-2. This action is the only honorable and moral decision appropriate in light of the results of the zoning study completed by the Planning Department."

Councilman Worley said that he was disappointed. He said that members of this Council have met numerous times with representatives of South Asheville. They've made a conscientious effort to work out possible solutions and have delayed public hearings to give the representatives of the various parties involved an opportunity to discuss amongst themselves and come up with resolutions. We met, as recently as last Friday, with Mr. Green and Ms. Eide and at that meeting, both Mr. Green and Ms. Eide indicated to Council that they had no problem with Council going forward on a temporary basis with the recommendation proposed by the Planning & Zoning Commission - yet we're hearing something entirely different now. He has heard today that City Council has breached the faith, but wonders if the same thing cannot be said back. Council has tried very hard but they also have a job to balance. Council can't give everybody everything they want. Property rights and values go both ways. He resented being accused of acting improperly and acting not in the best interest. All of Council was elected to do a job, to look at everything, to receive all of the information and to make the best decision they know how to make. And, they are trying to do that.

Councilman Cloninger agreed with Councilman Worley. He, too, attended the meeting last Friday with Ms. Eide and Mr. Green. They specifically said that what Council is proposing today in adopting the recommendation of the Planning & Zoning Commission was acceptable to them. Even though he is disappointed by the comments by Mr. Green and Ms. Eide today, he is convinced that Council will do the best thing by adopting the recommendation of the Planning & Zoning Commission. He felt Council will be creating a buffer that will protect Blake Mountain Estates until the UDO is adopted.

Mr. Ray Hardy, 35 Edgewater Lane, said that he is one of the principles in the Shuford estate which they are in the process of foreclosing. He said it is not the intent of the principles in the Shuford estate to take advantage of the people in South Asheville. He supported the recommendation of the Planning & Zoning Commission. He felt it was a fair compromise. As a side issue, he said that on the property where Council is considering making a buffer, there used to be an old road that goes up to an abandoned water reservoir. There's about a 16' open drain and he assumes the water is coming off of Blake Mountain Estates. The water is causing soil erosion to the back

property. Mayor Martin instructed the City Manager to investigate the concern.

Mr. William Shuford said that he has met with City staff and Ms. Darden concerning the zoning of the area and he was not concerned with the proposed UDO zoning of OB. He was not willing, however, to put the buffer on the Pulliam property, which is under development. He noted that his foreclosure proceedings are still in progress. He, too, asked the City to investigate the water runoff described earlier by Mr. Hardy.

Mr. Bruce Rogers, Treasurer of the Oak Forest Association, asked that Council return the two five acre tracts of OI to R-2, mainly because he was worried that by the time the UDO is adopted, the OI allows some fairly intrusive high density residential activity.

Mr. Eide voiced his disdain over the entire rezoning issue.

Ms. Kathy Rosenberg, 34 Westridge Drive, asked that the ten acres of OI property returned to the R-2 zoning. She felt that Blake Mountain and Oak Forest needs a civilized boundary to protect families that are already there.

Mr. Tim Davey, 211 Blake Mountain Estates, felt that every time he goes to a meeting, the mapping changes. He asked Council consider the Planning staff's recommendations to change the property to R-2. He, too, urged Council to rezone the OI portions back to R-2. He noted that since this originally came to Council about 4-5 months ago, Mr. Pulliam has now cleared his property (currently zoned R-2) of all trees in speculation of what was going to happen. He was concerned that the OI property will be cleared too.

Councilman Cloninger stated that City Council postponed the hearing on this matter at the request of the property owners at Blake Mountain Estate. Council was prepared to take action in November.

Ms. Kathryn Bolick, 36 Westridge Drive in the Oak Forest Subdivision, requested that the 10 acres of land zoned OI be returned to their original R-2 zoning. They want zoning that is in harmony with the neighborhood, not temporary fixes. They don't want to live in neighborhoods that are uncertain of their futures.

Mayor Martin closed the public hearing at 6:45 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Cloninger moved to adopt Ordinance No. 2345 (which is the Planning & Zoning Commission's recommendation to rezone that portion of PIN No. 9655.09-15-2013 from OI to R-2 with the portion being described as the portion west of the line that runs from the southwestern corner of that portion of the property identified as PIN No. 9655.09-15-0415 which is now zoned OI and running thence from [and that beginning point is located on the northern boundary between those two tax lots] and running thence from said southwestern corner in a southerly direction to its intersection with the southern boundary of that tax lot identified as PIN No. 9655.09-15-2013). This motion was seconded by Councilman Sellers.

City Attorney Oast said that the legal notice contains a metes and bounds description of the parcel being rezoned, as recommended by the Planning & Zoning Commission.

Councilman Skalski said that after this motion is made, he would make a motion to rezone all of PIN Nos. 9655.09-15-0415 and 9655.09-15-2013 back to their original R-2. In order to get at least part of PIN No. 9655.09-15-2013 back to R-2, he will vote in favor of Councilman Cloninger's motion.

Councilman Hay suggested leaving World Servers property zoned OI (as it has been zoned since it has been annexed) and basically rezone the Morosani OI tract to R-2. He was concerned about the ownership of the Morosani tract and the uses that are allowed with the OI zoning.

On a roll call vote of 7-0, Ordinance No. 2345 was adopted on its first and final reading.

Councilman Skalski moved to rezone the two tracts currently zoned OI in PIN Nos. 9655.09-15-0415 and 9655.09-15-2013 be rezoned back to their original R-2 designation. This motion died for a lack of a second.

Councilman Hay moved to rezone the remaining portion of PIN No. 9555.09-15-2013 from OI to R-2. This motion was seconded by Councilman Skalski.

Councilman Hay explained his motion by saying that it would reverse the OI zoning on the Morosani tract back to it's original R-2 but still leave the World Servers tract zoned OI since the World Servers building is an OI use. He felt this is a logical approach to solve the problem.

Mayor Martin asked the City Attorney if Councilman Hay's motion was out of order. City Attorney Oast felt that the motion was out of order because the petition before Council was initiated on the request to rezone the entire 10 acres zoned OI but the Planning & Zoning Commission recommended a partial rezoning. At today's meeting, Council adopted the partial rezoning as recommended by the Planning & Zoning Commission and denied the remaining OI zoning. He felt any further action on those particular parcels regarding that particular petition would be out of order unless reconsidered by the Planning & Zoning Commission.

Upon inquiry of Councilman Skalski, City Attorney Oast said that Council could make a motion to remand the remaining 8 acres zoned OI back to the Planning & Zoning Commission to reconsider.

Councilman Hay said that remanding this back to the Planning & Zoning Commission would not accomplish what he wants - which is to build a bridge from this point until the adoption of the UDO.

Councilman Cloninger felt that everyone has dealt in good faith and the only way Council is going to resolve situations like this is to be able to rely on each others words. Council met with representatives of South Asheville last Friday and it was made clear to Council by those representatives that the Planning & Zoning Commission's recommendation was acceptable to the people in that area.

City Attorney Oast then asked to respond to Councilman Hay's motion which he declared out of order earlier. He said that even though the motion stated was out of order, it is possible for Councilman Hay (since he voted in favor of the rezoning of the westernmost part of that lower parcel) to move for reconsideration. Council then has to vote on

whether to reconsider Councilman Cloninger's motion. If Council does vote in favor of reconsideration of Councilman Cloninger's motion, then Councilman Hay can make his motion for the rezoning of the entire lower parcel.

Councilman Hay then moved to reconsider the previous vote on rezoning a portion of the OI tract of PIN No. 9555.09-15-2013. This motion was seconded by Councilman Skalski and failed on a 2-5 vote, with Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Sellers and Worley voting "no".

Councilman Skalski made a motion for the Planning staff to develop a small area plan for the 155 acres in the Blake Mountain Estates area. He felt that is the only real fair way to deal with the zoning issues when there are so many parties involved. This motion died for a lack of a second.

ORDINANCE BOOK NO. 16 - PAGE 146

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RECOMMENDATIONS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY FOR ENGINEERING SERVICES CONTRACTS FOR PHASE I MASTER PLAN IMPROVEMENT PROJECTS

At the request of Councilman Cloninger, Councilman Worley moved to excuse Councilman Cloninger from voting on the contract with ENG/6A and the contracts with McGill Associates, P.A., due to a conflict of interest (his firm represents both engineering firms). This motion was seconded by Vice-Mayor Field and carried unanimously.

Mr. Mike Brookshire, Civil Engineer, said that in December 1996, the Authority authorized the Director and the Authority's attorney to negotiate Engineering Services Contracts for the approved Phase I Master Plan Improvement Projects. The solicitation for engineering services was through a request for proposals process. Negotiations have been completed with the following companies:

Project	Company
West Asheville Reservoir	McGill Associates
ISO Pipeline Improvements	McGill Associates
US 19&23 Connector	ENG/6 Associates
Fairview Reservoir & Pipeline	W.G. Lapsley & Assoc.
Newfound Mtn. Reservoir & Pipeline	McGill Associates

The Water Authority approved awarding contracts to ENG/6A in the amount not to exceed $58,835.00; W.G. Lapsley & Associates in the amount not to exceed $90,000.00; and McGill Associates in the amount not to exceed $62,750.00 for the Leicester Proposal, not to exceed $47,900.00 for the West Asheville Proposal, and not to exceed $51,600.00 for the Central Business District.

Staff recommends approval of the award for engineering services contracts to the aforementioned companies for the Phase I Master Plan Improvements Projects.

RESOLUTION NO. 97-15 - RESOLUTION ADOPTING THE RECOMMENDATIONS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY AND APPROVING THE EXECUTION OF AN ENGINEERING CONTRACT WITH WILLIAM G. LAPSLEY & ASSOCIATES, P.A., FOR A PORTION OF THE PHASE I MASTER PLAN IMPROVEMENT PROJECTS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved to adopt Resolution No. 97-15. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 5

RESOLUTION NO. 97-16 - RESOLUTION ADOPTING THE RECOMMENDATIONS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY AND APPROVING THE EXECUTION OF AN ENGINEERING CONTRACT WITH ENG/6A FOR A PORTION OF THE PHASE I MASTER PLAN IMPROVEMENT PROJECTS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved to approve Resolution No. 97-16. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 6

RESOLUTION NO. 97-17 - RESOLUTION ADOPTING THE RECOMMENDATIONS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY AND APPROVING THE EXECUTION OF AN ENGINEERING CONTRACT WITH McGILL ASSOCIATES, P.A., FOR PORTIONS OF THE PHASE I MASTER PLAN IMPROVEMENT PROJECTS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved to approve Resolution No. 97-17. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 7

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on February 5, 1997:

Southridge II Residential Hall at UNC-A

Mr. Carl Ownbey, Urban Planner, said that this is a consideration of a proposal to construct a 76 room dormitory on the UNC-A campus.

The four story dormitory will house 150 students and will be located adjacent to the existing residence hall near the Southwestern corner of the campus.

The site plan meets all Group Development and zoning requirements and staff has received no public comment on this proposal.

At their February 5, 1997, meeting, the Commission voted unanimously to recommend approval of the group development with one condition: (1) The receipt of letters of approval for availability of water and services and adequate water pressure for fire protection.

The Planning and Development Department staff recommended approval with the same condition.

Council accepted the report of the Planning and Zoning Commission with the above condition, thereby approving the project by taking no action.

View Pointe Residential Community located on Azalea Drive

Mr. Ownbey said that this is consideration of approval of a 45 unit residential retirement community on 10.7 acres located off Swannanoa River Road in East Asheville.

On January 6, 1997, the Planning Department received the site plan for a proposed residential community. The proposed project will be a 45 unit residential community developed as a retirement community. The site plan was presented to the Technical Review Committee on January 13, 1997, for their comments.

On February 5, 1997, the Commission reviewed the site plan and opened the meeting for public comment. There were no comments from the public.

The Commission voted unanimously to approve the project with the following 5 conditions: (1) submittal of stormwater and erosion control plans; (2) approved NCDOT driveway permit; (3) approved street names; (4) letter of adequate water flow for fire protection; and (5) detailed driveway stormwater drainage plan.

The Planning Staff and the Commission recommend approval of the View Pointe Residential Community with the five conditions.

Upon inquiry of Councilman Hay, Mr. Ownbey showed Council where the gate is to be located on this gated community.

Council accepted the report of the Planning and Zoning Commission with the above condition, thereby approving the project by taking no action.

Gashes Creek Office Park located on Gashes Creek Road

Mr. Ownbey said that this is consideration of approval of a 32,750 square foot office building on 1.65 acres located off Gashes Creek Road in East Asheville.

On January 6, 1997, the Planning Department received the site plan for a proposed office building. The proposed project will be a three story, 32,750 square foot office building. The site plan was presented to the Technical Review Committee on January 13, 1997, for their comments.

On February 5, 1997, the Planning & Zoning Commission reviewed the site plan and opened the meeting for public comment. There was one

comment from an adjoining property owner who expressed their support for the project.

The petitioner has requested four variances for this project and requests zoning vested rights.

City Council will need to set a public hearing to consider the following items for the proposed project known as the "Gashes Creek Office Building", located off Gashes Creek Road in East Asheville: (1) the approval of a site plan; (2) The granting of a zoning vested right for Gashes Creek Office Building. The granting of a zoning vested right will extend the approval time period for the project from 1 year to 2 years; (3) The following variances: (a) variance to the parking space requirements for office buildings; (b) variance to the street tree requirements regarding location and width of the street tree planting strip; (c) variance to the landscaping in the off-street parking area; and (d) variance to the rear setback requirement for an office building.

The Planning & Zoning Commission voted unanimously to approve of the project with the four variances and one condition which is the submittal of an erosion control plan.

The Planning Staff recommends that the City Council schedule a public hearing to review the requested four variances and the request for zoning vested rights of the Gashes Creek Office Building.

Councilman Skalski moved to set a public hearing on February 25, 1997. This motion was seconded by Councilman Worley and carried unanimously.

Willoughby Run Townhouses located at the corner of Sweeten Creek Road and Rathfarnham Road

Ms. Erin McLoughlin, Urban Planner, said that this is consideration for approval of a twenty seven unit townhouse development at the intersection of Sweeten Creek and Rathfarnham Roads.

The 2.93 acre parcel is zoned CG (commercial general) which refers to R-3 standards. R-3 allows 16 units per acre. Twenty-seven units is within the allowed density. This development borders CG (commercial general) zoning to the south and R-3 (medium density residential) zoning to the west. The proposal meets all zoning and group development requirements.

At the February 5, 1997, the Commission meeting, a member of the public voiced concern about erosion problems already existing on the proposed site.

The City Planning and Development staff recommends approval of the group development with two conditions: (1) Letter from the Water Authority confirming availability; and (2) Council to set date for a public hearing regarding a variance for set back requirements for accessory structure, Sec. 30-5-4-C.

At their February 5, 1997, meeting, the Commission voted 6-0 to approve the development with two previously mentioned conditions.

Ms. McLoughlin said that a letter has been received from the Water Authority confirming availability.

Councilman Skalski moved to set a public hearing on February 25, 1997, to consider the approval of a site plan for Willoughby Run

Townhouses, located at the intersection of Sweeten Creek and Rathfarnham Roads, and a variance to the setback requirements for accessory structures for the project. This motion was seconded by Vice-Mayor Field and carried unanimously.

Vice-Mayor Field asked that the City's Traffic Engineer be at the hearing on February 25, 1997, to address any traffic concerns.

B. TRANSIT FUNDING

Councilman Skalski said that he would be meeting with legislators to discuss helping transit cities like Asheville obtain more money for transit. City Council fully supported asking for an increase in the transit share fund and asked Councilman Skalski to relay their support to the legislators.

C. UDO SCHEDULED

Mr. Karl Koon, Buncombe County appointee to the Planning & Zoning Commission ("Commission"), assured City Council that members on the Commission have been diligently working on their review of the UDO. He takes his job on that Commission very seriously and even though the UDO has been worked on for over seven years, he has only been on the Commission since September, 1996. He felt that the Commission is doing the best job they can before it moves on to the City Council for their for their review.

Councilman Worley commented that the Commission has been working hard on the UDO and he was impressed with Mr. Koon's thoroughness and conscientiousness with which he has dived into the UDO review.

Mayor Martin also felt that if the Commission needed additional time to adequately prepare the document to proceed to City Council, then they should have it. He did note, however, they a time schedule is necessary due to the significant amount of money that will be expended for advertising.

D. CLAIMS

The following claims were received by the City of Asheville during the week of January 24-30, 1997: Walter Toth (Streets), John B. Young (Water) and Mountain Spring Apartments (Fire).

The following claims have been received by the City during the week of January 31-February 6, 1997: Kathy Miller (Civic Center), Reader's Corner (Water), Dave Marcus (Finance), Bob May (Water), David Hill (Streets), Rhonda Simmons (Civic Center), Ed Hardin (Streets) and Davenport Properties (Police).

These claims have been referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:35 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - February 18, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski (arrived at 3:35 p.m.); and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Mayor Martin recognized students from Western Carolina University in the Masters of Public Administration Program.

CONSENT:

Advertise Sale of Disposal Parcels 6B & 6C

Summary: The consideration of adopting a resolution authorizing advertisement for upset bids in response to a bid received from Neighborhood Housing Services of Asheville Inc. (NHS) for Disposal Parcels 6B and 6C.

A bid has been received from Neighborhood Housing Services of Asheville, Inc. (NHS) in the amount of $248,900 for the purchase of Disposal Parcels 6B and 6C in the Head of Montford Redevelopment Project.

Disposal Parcels 6B & 6C are CG (Commercial General) zoned parcels located on Montford Avenue about 200 feet North of the Billy Graham Freeway comprising 1.2 acres. The combined Fair Reuse Value for both parcels is $248,900. The proposed land use for the property in the Head of Montford Redevelopment Plan is for neighborhood commercial.

Meals on Wheels of Asheville and Buncombe County, Inc. has requested that the City Council direct the City Attorney to request an Attorney General's opinion pursuant to N. C. Gen. Stat. 160A-279 in order to determine whether Disposal Parcels 6B and 6C may be conveyed thereby at no cost or at a reduced cost as a site for Meals on Wheels headquarters.

NHS has submitted a bid to purchase Disposal Parcels 6B and 6C in the amount of $248,900. The proposal includes a plan to build: three two-story mixed use buildings on Montford Avenue for neighborhood retail, office and residential space along with four residential structures on Short Street at an anticipated development cost of $1,540,000.00.

The Montford Neighborhood Advisory Committee has endorsed the NHS proposal.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in G.S. 160A-269.

Community Development staff recommends denial of the request from Meals on Wheels and adoption of the resolution authorizing advertisement for upset bids.

Establish Fair Reuse Value for Disposal Parcels 10.2, 10.2 & 10.3 in the East End/Valley Street Project

Summary: Certain Disposal Parcels in East End/Valley Street have been appraised, the appraisals reviewed and it is necessary to establish the Fair Reuse Value in order to market the property.

Disposal Parcel 10 is located at the intersection of Martin Luther King, Jr. Drive with Edge Hill and Carroll Avenues in East End and due to its size it has been subdivided into three single family home sites to be sold under the Dollar ($1.00) Lot Program. The sites identified as Disposal Parcels 10.1, 10.2 and 10.3 comprise approximately 10,498, 10,498 and 16,727 square feet respectively and are zoned for residential development.

Each Disposal Parcel was appraised by David Moore, MAI, SRA. The appraisals were reviewed by Francis J. Naeger, MAI, who concurred and recommended the appraised values as the Fair Reuse Values.

Approval of the resolution will establish the Fair Reuse Value for each of the Disposal Parcels.

Community Development staff recommends adoption of the resolution.

Fourth Modified Airport Grant Agreement

Summary: Consideration of a Fourth Modified Grant Agreement with the N.C. Dept. of Transportation for matching funds for the (now completed) Asheville Airport Terminal Expansion.

The City is required by law to execute certain contracts and agreements for the Airport Authority. This Fourth Modified Grant Agreement is to allow the Authority to receive additional matching funds from the Dept. of Transportation ("DOT") for the Phase III Terminal Expansion.

Airport Director Jim Parker advises that the Terminal Expansion project was financed almost entirely with bond money, and that it was completed several years ago. The estimated cost of the project was $3.36 million and DOT's projected commitment under the State Aid to Airports program is approximately half of the estimate. Because of budgetary limitations, this entire amount was not available when the project was completed, and DOT has been making "installment" allocations of $300,000 or $200,000 on a yearly basis, as funds become available. In order for these allocations to continue, the Grant Agreement must be extended for another year, even though the project has been completed.

The $200,000 allocation for this year will still not complete the DOT's program commitment, and Mr. Parker advises that the Grant Agreement will have to be extended at least one more year, depending on the availability of funds from DOT.

Adoption of the attached resolution is recommended.

Trust for Public Land Application for Continued Greenway Planning

Summary: The Trust for Public Land would like to submit a proposal to area foundations for further greenway funding.

The Trust for Public Land is a non-profit land conservation organization. They work nationwide to protect land as parks, gardens, recreation areas, and wilderness. Their goal is to ensure livable communities for generations to come. Currently, they are working in Asheville to secure the right of way for a future Broadway greenway. They would like to apply for more funding from local foundations to further their work in Asheville. This work would include finishing the Broadway Greenway, developing land strategies for the Haw Creek Greenway, and developing a master greenways plan for our area. This is a possible opportunity for the City to have their professional services at no cost to the City.

No action is necessary. This is for Council information only.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

CONTINUATION OF PUBLIC HEARING RELATIVE TO DEMOLITION OF 112 BROOKLYN ROAD

Ms. Natalie Berry, Housing Inspector, said that this is a continuance of a public hearing relative to the demolition of 112 Brooklyn Road.

112 Brooklyn Road was a dilapidated residence which the owner (Ransom Rutherford) has taken out appropriate permits and done substantial work to rehabilitate the structure. The structure is no longer a threat to the community.

112 Brooklyn Road was brought to Council on June 25, 1996, with a recommendation for demolition. Mr. Rutherford asked that Council give him time for contract bids to come in on the structure, for which Council granted 60 days continuance. On August 27, 1996, a progress report was provided to Council and 6 months continuance was given to the owner for construction improvements.

As documented by the construction work completed, 112 Brooklyn Road is almost finished and is now an asset to the community. In addition, 110 Brooklyn Road was bought and remodeled and 118 Brooklyn Road is a new home that was constructed since Mr. Rutherford began rehabilitation of his home. Mr. Rutherford's efforts have made a significant positive impact upon the neighborhood.

The Building Safety Director recommends the deletion of 112 Brooklyn Road from the City's list of properties posing a threat to the community.

At the request of Mayor Martin, City Attorney Oast said that he would prepare the proper paperwork for Council action at their next meeting to delete 112 Brooklyn Road from the City's list of properties posing a threat to the community.

FESTIVALS UPDATE

Mr. Butch Kisiah, Superintendent of Recreation, said that the Parks and Recreation Department is requesting City Council approval of the 1997 festival and special events schedule.

In March of 1995, the Asheville City Council adopted a festivals policy. A segment of that policy requires that City Council approve the list of festivals on an annual basis. Therefore the Parks and Recreation Department is recommending the approval of the following festivals and special events:

Event	Date
St. Patrick' Day	March 14,15,16
Oakley Community Day	April 19
Walk America	April 26
Very Special Arts Festival	May 2
Tell it in the mountains	May 3,4,5
Riverlink "A Day At The Races"	June 8
Honda Hoot	June 17,18,19,20,21
Riverlink Bridge Party and Parades	June 28
Riverlink Triathlon	June 28
Fourth of July Celebration	July 4
Shindig on the Green	July 5, 12, 19 & August 2,16,23,30
Riverlink Nature and Environmental Art and Craft Show	July 19,20
Bele Chere	July 25,26,27
Mountain Dance and Folk Festival	August 1,2,3
Goombay Festival	August 29,30,31
Pops in the Park	August 31
Childrens' Fun Fest	September 13
Greek Festival	October 3,4,5
Shiloh Fall Festival	October 11
Riverlink French Broad Park Birthday Party and Volunteer Recognition	October 12
West Fest	October 25
Halloween Fun Fair	October 31
Light up your holidays	November 29
First Night	December 31
Bicentennial Celebration	Year long
City Development co-sponsored festivals and events	
Moonlight Over Downtown,., Pack Square Honda Hoot Street Party, Downtown After Five: (sponsored by Honda Hoot), Pack Square, Downtown After Five: location TBA Downtown After Five: location TBA Downtown After Five:.location TBA	May 30, 6 p.m June 18 June 20, 6 p.m. July 11, 6 p.m. Aug. 15, 6 p.m Sept. 12, 6 p.m

The Parks and Recreation Department recommends approval of the above listed festivals for 1997.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

COUNCIL CHAMBER RENOVATIONS

Mr. Irby Brinson, Director of Parks & Recreation, said the Parks and Recreation Department is seeking authorization from City Council to enter into contract with the audio-visual design firm Electronic Interiors Inc., for design services to renovate the Council Chamber in City Hall.

The current layout and equipment utilized in the Council Chamber results in poor audio-visual capabilities. Therefore, Staff has determined that it is necessary to upgrade the level of media and data-processing services for City Council meetings, and that in order to make these upgrades, the services of a design firm would be needed.

At the recommendation of City Council, an RFP Committee was formed to solicit and review proposals covering the following three areas:

1. Develop methods and procedures for inspection of existing components while preserving the historic fabric of the structure. Prior to construction, develop plans and written bid specifications for necessary improvements to the Council Chamber, incorporating improvements that will include data terminals, a public address system, video cameras, cable television, overhead projection screens, security monitoring devices, and improved exit routes.
2. The City Hall Building is a designated local historic landmark. The design firm should be sensitive to this in responding to the needs and wishes of the City Council and the direction of the City Manager or his designated representative.
3. Make site inspections, consult with Historic Resources Commission, and obtain a Certificate of Appropriateness for the proposed improvements.

The Committee solicited proposals from approximately 65 firms, including 15 certified minority businesses in the design field that they are registered with the City. Proposal solicitation letters were also sent to the Asheville Business Development Center, the City/County Minority Affairs Office and other similar business resource organizations. Four bid proposals were received, one of which was from a certified minority business. The four bidders are listed below:

Comtec Inc. (Asheville, North Carolina)
Electronic Interiors Inc. (St. Paul, Minnesota)
Mathews & Glazer Architects, P.A. (Asheville, North Carolina)
Camille-Alberice Architects P.A. (Asheville, North Carolina)

After hearing presentations from each of the qualified firms and taking all information into consideration, the Committee recommended that Electronic Interiors Inc. be selected as the prime contractor for the project, with the stipulation that they hire a local architectural firm, if needed. The Committee reviewed this firm's experience with and sensitivity to historic sites and found that Electric Interiors has a proven track record of installation of state-of-the-art audio-visual equipment in historic spaces without destroying their historic fabric.

Staff recommends that the City Manager be authorized to enter into a contract with Electronic Interiors Inc. for design services to renovate the Council Chamber in City Hall.

Upon inquiry of Councilman Cloninger, Mr. Brinson explained that the Committee did not feel that the local companies had the level of experience that Electronic Interiors Inc. had with regard to a project of this nature.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

RESOLUTION NO. 97-18 RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH PUBLIC INTEREST PROJECTS INC. FOR THE LOCATION OF A PEDESTRIAN BRIDGE CONNECTING PROPERTY OWNED BY PUBLIC INTEREST PROJECTS INC. WITH THE RANKIN AVENUE PARKING GARAGE

City Attorney Oast said that this resolution would authorize the City Manager to execute an agreement with Public Interest Projects, Inc. for the location of a pedestrian bridge connecting property owned by Public Interest Projects Inc. with the Rankin Avenue Parking Garage.

By Resolution No. 93-157 adopted on October 23, 1993, the City Manager was authorized previously to execute an agreement with Cambridge Interests Inc. providing for a pedestrian bridge connecting property owned by Cambridge Interests Inc. with the Rankin Avenue Parking Garage. The proposed bridge was to connect the parking garage with the property formerly occupied by J. C. Penney's department store.

The plans for the development of the project were revised subsequently so as to require that the pedestrian bridge also connect with that building known as the "Infill Building" located between the former J. C. Penney's department store and the former Bon Marche department store building. Due to those revisions and a request from the property developer, the City Council adopted Resolution No. 94-121 on June 21, 1994, which authorized the City Manager to execute a new agreement with Cambridge Interests Inc. providing for the construction of a pedestrian bridge connecting the former J. C. Penney's building and the "Infill Building" with the Rankin Avenue Parking Garage.

Public Interest Projects Inc. now owns the property formerly occupied by the J. C. Penney's department store and Cambridge Interests Inc. is still the owner of the building designated as the "Infill Building." Further revisions in the plans for the development of the property have resulted in a request from Public Interest Projects, Inc. that the City execute a new agreement with it for the location of the pedestrian bridge which will connect only the building formerly occupied by J. C. Penney's department store with the Rankin Avenue Parking Garage. This resolution would authorize the City Manager to execute such an agreement.

The City Attorney's Office recommends approval of the resolution.

Mr. Pat Whalen asked if action could be taken formally at this meeting in order that the ordering of the bridge not be delayed longer than necessary.

At the request of Vice-Mayor Field, Councilman Worley moved to excuse Vice-Mayor Field from voting due to a conflict of interest. This motion was seconded by Councilman Cloninger and carried unanimously.

Councilman Cloninger moved to waive the rules and take formal action on this item at this time. This motion was seconded by Councilman Worley and carried unanimously.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Cloninger moved for the adoption of Resolution No. 97-18. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 9

CONSIDERATION OF PURCHASE OF SHILOH COMMUNITY CENTER PROPERTY

Mr. Irby Brinson, Director of Parks & Recreation, said that this resolution would authorize the City Manager to execute an Offer to Purchase and Contract for the purchase of property on which the Shiloh Community Center is located and would schedule a public hearing for this matter on March 11, 1997.

The Buncombe County Board of Education now owns the property on which the Shiloh Community Center is located and the City has been leasing that property since December 1, 1976. The City of Asheville desires to purchase this property for its continued use for the Shiloh Community Center. The Buncombe County Board of Education has agreed to sell the property to the City of Asheville for Two Hundred Fifty Thousand Dollars ($250,000) and has agreed to finance the purchase price for this property over a five (5) year period, including the current fiscal year.

Mr. Brinson said that the Board of Election has asked for the first payment to be in this fiscal year; however, staff requests that the first payment be made in the next fiscal year. He said that funds are budgeted in their Capital Improvement Plan for next fiscal year.

N. C. Gen. Stat. sec. 160A-20 authorizes cities to purchase real property by installment contract which creates in the property purchased a security interest to secure payment of the purchase price to the seller. N. C. Gen. Stat. sec. 160A-20 requires that the City Council hold a public hearing prior to entering into an installment contract for the purchase of real property.

The Parks and Recreation Department and the City Attorney's Office recommend approval of this resolution.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

AMENDMENT TO RICE, WILLIAMS ASSOCIATES CONTRACT

Ms. Patsy Meldrum, Assistant City Attorney, said that this resolution would authorize the City Manager to execute an amendment to the agreement with Rice, Williams Associates to expand the scope of services to include review of proposed franchise documents with telecommunications providers.

The City of Asheville entered into an agreement with Rice, Williams Associates, Inc. dated February 7, 1995, wherein Rice, Williams Associates is to perform certain services regarding telecommunications matters for the City of Asheville. The agreement with Rice, Williams Associates was previously amended on December 19, 1995 to expand the scope of those services. The City now desires to expand again the scope

of services to be performed by Rice Williams to include review of proposed franchise documents for telecommunications providers.

The City Attorney's Office recommends approval of the resolution.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

BOARDS AND COMMISSIONS

Asheville School Board

Vice-Mayor Field reported that the City Council Boards & Commissions Committee met regarding the request of several organizations to be included as members on the City Business and Development Commission. The Commission members felt that the Commission would best be served with a representative from the Tourism Development Authority and the Minority Business Alliance. It was the consensus of Council to ask these two organization for a representative to be on the Commission and then amend the ordinance accordingly.

Vice-Mayor Field also reported that the Committee reviewed the School Board selection schedule and felt that the next round of School Board interviews should take place on Tuesday, March 18, 1997, beginning at 5:00 p.m. in the Council Chamber in the City Hall Building. She noted that discussion of new members would take place at the Pre-Council meeting on March 25, 1997, with formal action being taken at the March 25, 1997, formal meeting.

Councilman Skalski suggested that, in the future, all preliminary interview candidates should be given the opportunity to receive the written questions before the next cut is made. He felt that the short ten minute interviews are not enough time within which to accurately interview the candidate.

Council then compiled ten questions to sent to the candidates for their written responses prior to their next interview. It was decided that there be two questions on a page, thereby limiting the answers to be no more than one-half page long.

Council then narrowed the field from 14 candidates to the following nine: John Legerton, Hugh McCollum, Mary Downes, Susan Fisher, Marsha Bate, Pat McClellan, Susan Paterson, Lewis Isaac and Joe Ferikes.

Asheville-Buncombe Water Authority

Councilman Sellers nominated Norma Price to the Asheville-Buncombe Water Authority. This nomination was seconded by Mayor Martin. When Mayor Martin asked for a show of hands in favor of Norma Price, Mayor Martin and Councilman Sellers raised their hands.

Councilman Skalski nominated Nelda Holder to the Asheville-Buncombe Water Authority. This nomination was seconded by Councilman Hay. When Mayor Martin asked for a show of hands in favor of Nelda Holder, Vice-Mayor Field and Councilmen Hay and Skalski raised their hands.

Councilman Worley nominated J. Lewis Daniels to the Asheville-Buncombe Water Authority. This nomination was seconded by Councilman Sellers. When Mayor Martin asked for a show of hands in favor of J. Lewis Daniels, Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Hay, Sellers and Worley raised their hands.

It was the consensus of Council that this appointment would be to serve the unexpired term of Mr. Harold Enloe, term to expire September 30, 1997, and also a full three year term, term to expire September 30, 2000.

Asheville Area Civic Center Commission

Councilman Hay nominated Douglas Haldane to the Civic Center Commission to serve the unexpired term of Mr. Hayes Martin, term to expire June 30, 1997, and also a full three year term, term to expire June 30, 2000. This nomination was seconded by Councilman Worley. When Mayor Martin asked for a show of hands in favor of Douglas Haldane, all Council raised their hands.

Vice-Mayor Field nominated R. Carl Mumpower to the Civic Center Commission to fill out the unexpired term of Mr. Tom Bailey, term to expire June 30, 1998. This nomination was seconded by Councilman Sellers. When Mayor Martin asked for a show of hands in favor of Douglas Haldane, all Council raised their hands.

OTHER ITEMS:

Ms. Leni Sitnick suggested some improvements to the newly renovated First Floor Conference Room. City Manager Westbrook explained the two different phases for the renovation work.

Councilmen Cloninger and Worley stated that City Council has every intention on adopting the Unified Development Ordinance on schedule, which is May 27, 1997.

CLOSED SESSION:

At 4:07 p.m., Councilman Worley moved to go into closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by the Asheville City Council. G.S. 143-318.11 (a) (4) authorizes this closed session. This motion was seconded by Councilman Sellers and carried unanimously.

At 4:45 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:45 p.m.

Magdalen Bowman
CITY CLERK

MAYOR

Tuesday - February 25, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Mayor Martin gave the invocation.

CLOSED SESSION

At 5:07 p.m., Councilman Sellers moved to go into closed session (1) to consult with an attorney employed or retained by the City Council in order to preserve the attorney-client privilege between the City and its attorney - statutory authority is G.S. 143-318.11 (a) (3); and (2) to discuss a matter relating to the location or expansion of a business within the area served by the City Council - statutory authority is G.S. 143-318.11 (a) (4). This motion was seconded by Councilman Worley and carried unanimously.

At 5:20 p.m, Councilman Skalski moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

I. PROCLAMATIONS:

II. CONSENT:

At the request of Councilman Hay, Item F. was removed from the Consent Agenda for individual discussion.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 11, 1997, AND THE WORKSESSION HELD ON FEBRUARY 18, 1997

B. MOTION APPROVING THE 1997 FESTIVALS AND SPECIAL EVENTS SCHEDULE

Summary: The Parks and Recreation Department is recommending the approval of the following festivals and special events:

Event	Date
St. Patrick' Day	March 14,15,16
Oakley Community Day	April 19
Walk America	April 26
Very Special Arts Festival	May 2
Tell it in the mountains	May 3,4,5
Riverlink "A Day At The Races"	June 8
Honda Hoot	June 17,18,19,20,21
Riverlink Bridge Party and Parades	June 28
Riverlink Triathlon	June 28

Fourth of July Celebration	July 4
Shindig on the Green	July 5, 12, 19 & August 2,16,23,30
Riverlink Nature and Environmental Art and Craft Show	July 19,20
Bele Chere	July 25,26,27
Mountain Dance and Folk Festival	August 1,2,3
Goombay Festival	August 29,30,31
Pops in the Park	August 31
Childrens' Fun Fest	September 13
Greek Festival	October 3,4,5
Shiloh Fall Festival	October 11
Riverlink French Broad Park Birthday Party and Volunteer Recognition	October 12
West Fest	October 25
Halloween Fun Fair	October 31
Light up your holidays	November 29
First Night	December 31
Bicentennial Celebration	Year long
City Development co-sponsored festivals and events	
Moonlight Over Downtown,., Pack Square Honda Hoot Street Party, Downtown After Five: (sponsored by Honda Hoot), Pack Square, Downtown After Five: location TBA Downtown After Five: location TBA Downtown After Five:.location TBA	May 30, 6 p.m June 18 June 20, 6 p.m. July 11, 6 p.m. Aug. 15, 6 p.m Sept. 12, 6 p.m

c. **RESOLUTION NO. 97-19 - RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH ELECTRONIC INTERIORS INC. FOR DESIGN SERVICES FOR THE COUNCIL CHAMBER RENOVATION PROJECT IN THE CITY HALL BUILDING**

Summary: The Parks and Recreation Department is seeking authorization from City Council to enter into contract with the audio-visual design firm Electronic Interiors Inc., for design services to renovate the Council Chamber in City Hall.

The current layout and equipment utilized in the Council Chamber results in poor audio-visual capabilities. Therefore, staff has determined that it is necessary to upgrade the level of media and data-processing services for City Council meetings, and that in order to make these upgrades, the services of a design firm would be needed.

At the recommendation of City Council, an RFP Committee was formed to solicit and review proposals covering the following three areas:

1. Develop methods and procedures for inspection of existing components while preserving the historic fabric of the structure. Prior to construction, develop plans and written bid specifications for necessary improvements to the Council Chamber, incorporating improvements that will include data terminals, a

public address system, video cameras, cable television, overhead projection screens, security monitoring devices, and improved exit routes.

2. The City Hall Building is a designated local historic landmark. The design firm should be sensitive to this in responding to the needs and wishes of the City Council and the direction of the City Manager or his designated representative.

3. Make site inspections, consult with Historic Resources Commission, and obtain a Certificate of Appropriateness for the proposed improvements.

The Committee solicited proposals from approximately 65 firms, including 15 certified minority businesses in the design field that they are registered with the City. Proposal solicitation letters were also sent to the Asheville Business Development Center, the City/County Minority Affairs Office and other similar business resource organizations. Four bid proposals were received, one of which was from a certified minority business. The four bidders are listed below:

Comtec Inc. (Asheville, North Carolina)
Electronic Interiors Inc. (St. Paul, Minnesota)
Mathews & Glazer Architects, P.A. (Asheville, North Carolina)
Camille-Alberice Architects P.A. (Asheville, North Carolina)

After hearing presentations from each of the qualified firms and taking all information into consideration, the Committee recommended that Electronic Interiors Inc. be selected as the prime contractor for the project, with the stipulation that they hire a local architectural firm, if needed. The Committee reviewed this firm's experience with and sensitivity to historic sites and found that Electric Interiors has a proven track record of installation of state-of-the-art audio-visual equipment in historic spaces without destroying their historic fabric.

RESOLUTION BOOK NO. 24 - PAGE 11

D. RESOLUTION NO. 97-20 - RESOLUTION AUTHORIZING THE ADVERTISING OF BIDS FOR THE SALE OF DISPOSAL PARCELS 6B & 6C LOCATED ON MONTFORD AVENUE

Summary: The consideration of adopting a resolution authorizing advertisement for upset bids in response to a bid received from Neighborhood Housing Services of Asheville Inc. (NHS) for Disposal Parcels 6B and 6C.

A bid has been received from Neighborhood Housing Services of Asheville, Inc. (NHS) in the amount of $248,900 for the purchase of Disposal Parcels 6B and 6C in the Head of Montford Redevelopment Project.

Disposal Parcels 6B & 6C are CG (Commercial General) zoned parcels located on Montford Avenue about 200 feet North of the Billy Graham Freeway comprising 1.2 acres. The combined Fair Reuse Value for both parcels is $248,900. The proposed land use for the property in the Head of Montford Redevelopment Plan is for neighborhood commercial.

Meals on Wheels of Asheville and Buncombe County, Inc. has requested that the City Council direct the City Attorney to request an Attorney General's opinion pursuant to N. C. Gen. Stat. 160A-279 in order to determine whether Disposal Parcels 6B

and 6C may be conveyed thereby at no cost or at a reduced cost as a site for Meals on Wheels headquarters.

NHS has submitted a bid to purchase Disposal Parcels 6B and 6C in the amount of $248,900. The proposal includes a plan to build: three two-story mixed use buildings on Montford Avenue for neighborhood retail, office and residential space along with four residential structures on Short Street at an anticipated development cost of $1,540,000.00.

The Montford Neighborhood Advisory Committee has endorsed the NHS proposal.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in G.S. 160A-269.

Community Development staff recommends denial of the request from Meals on Wheels and adoption of the resolution authorizing advertisement for upset bids.

RESOLUTION BOOK NO. 24 - PAGE 12

E. RESOLUTION NO. 97-21 - RESOLUTION ESTABLISHING FAIR REUSE VALUE FOR DISPOSAL PARCELS 10.1, 10.2 & 10.3 IN THE EAST END/VALLEY STREET PROJECT (CARROLL AVENUE AREA)

Summary: Certain Disposal Parcels in East End/Valley Street have been appraised, the appraisals reviewed and it is necessary to establish the Fair Reuse Value in order to market the property.

Disposal Parcel 10 is located at the intersection of Martin Luther King, Jr. Drive with Edge Hill and Carroll Avenues in East End and due to its size it has been subdivided into three single family home sites to be sold under the Dollar ($1.00) Lot Program. The sites identified as Disposal Parcels 10.1, 10.2 and 10.3 comprise approximately 10,498, 10,498 and 16,727 square feet respectively and are zoned for residential development.

Each Disposal Parcel was appraised by David Moore, MAI, SRA. The appraisals were reviewed by Francis J. Naeger, MAI, who concurred and recommended the appraised values as the Fair Reuse Values.

Approval of the resolution will establish the Fair Reuse Value for each of the Disposal Parcels.

RESOLUTION BOOK NO. 24 - PAGE 13

F. RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

This item was removed from the Consent Agenda to be discussed individually.

G. RESOLUTION NO. 97-22 - RESOLUTION AUTHORIZING THE EXECUTION OF AN OFFER TO PURCHASE AND CONTRACT FOR THE PURCHASE OF PROPERTY ON WHICH THE SHILOH COMMUNITY CENTER IS LOCATED AND SETTING A PUBLIC HEARING ON MARCH 11, 1997

Summary: The Buncombe County Board of Education now owns the property on which the Shiloh Community Center is located and the City has been leasing that property since December 1, 1976. The City of Asheville desires to purchase this property for its continued use for the Shiloh Community Center. The Buncombe County Board of Education has agreed to sell the property to the City of Asheville for Two Hundred Fifty Thousand Dollars ($250,000) and has agreed to finance the purchase price for this property over a five (5) year period, beginning in Fiscal Year 97/98.

N. C. Gen. Stat. sec. 160A-20 authorizes cities to purchase real property by installment contract which creates in the property purchased a security interest to secure payment of the purchase price to the seller. N. C. Gen. Stat. sec. 160A-20 requires that the City Council hold a public hearing prior to entering into an installment contract for the purchase of real property.

RESOLUTION BOOK NO. 24 - PAGE 14

H. RESOLUTION NO. 97-23 - RESOLUTION AUTHORIZING THE EXECUTION OF A FOURTH MODIFIED GRANT AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE AIRPORT TERMINAL EXPANSION

Summary: Consideration of a Fourth Modified Grant Agreement with the N.C. Dept. of Transportation for matching funds for the (now completed) Asheville Airport Terminal Expansion.

The City is required by law to execute certain contracts and agreements for the Airport Authority. This Fourth Modified Grant Agreement is to allow the Authority to receive additional matching funds from the Dept. of Transportation ("DOT") for the Phase III Terminal Expansion.

Airport Director Jim Parker advises that the Terminal Expansion project was financed almost entirely with bond money, and that it was completed several years ago. The estimated cost of the project was $3.36 million and DOT's projected commitment under the State Aid to Airports program is approximately half of the estimate. Because of budgetary limitations, this entire amount was not available when the project was completed, and DOT has been making "installment" allocations of $300,000 or $200,000 on a yearly basis, as funds become available. In order for these allocations to continue, the Grant Agreement must be extended for another year, even though the project has been completed.

The $200,000 allocation for this year will still not complete the DOT's program commitment, and Mr. Parker advises that the Grant Agreement will have to be extended at least one more year, depending on the availability of funds from DOT.

RESOLUTION BOOK NO. 24 - PAGE 15

I. RESOLUTION NO. 97-24 - RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE AGREEMENT WITH RICE, WILLIAMS ASSOCIATES INC. TO INCLUDE REVIEW OF PROPOSED FRANCHISE DOCUMENTS WITH TELECOMMUNICATIONS PROVIDERS

Summary: The City of Asheville entered into an agreement with Rice, Williams Associates, Inc. dated February 7, 1995, wherein Rice, Williams Associates is to perform certain services regarding telecommunications matters for the City of Asheville. The agreement with Rice, Williams Associates was previously amended on December 19,

1995 to expand the scope of those services. The City now desires to expand again the scope of services to be performed by Rice Williams to include review of proposed franchise documents for telecommunications providers.

RESOLUTION BOOK NO. 24 - PAGE 16

J. **RESOLUTION NO. 97-25 - RESOLUTION RECOGNIZING IMPROVEMENTS TO STRUCTURE AT 112 BROOKLYN ROAD AND CONTINUING PUBLIC HEARING IN CONTEMPLATION OF DISMISSAL**

Summary: 112 Brooklyn Road was a dilapidated residence which the owner (Ransom Rutherford) has taken out appropriate permits and done substantial work to rehabilitate the structure. The structure is no longer a threat to the community.

112 Brooklyn Road was brought to Council on June 25, 1996, with a recommendation for demolition. Mr. Rutherford asked that Council give him time for contract bids to come in on the structure, for which Council granted 60 days continuance. On August 27, 1996, a progress report was provided to Council and 6 months continuance was given to the owner for construction improvements.

As documented by the construction work completed, 112 Brooklyn Road is almost finished and is now an asset to the community. In addition, 110 Brooklyn Road was bought and remodeled and 118 Brooklyn Road is a new home that was constructed since Mr. Rutherford began rehabilitation of his home. Mr. Rutherford's efforts have made a significant positive impact upon the neighborhood.

RESOLUTION BOOK NO. 24 - PAGE 17

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Field and carried unanimously.

ITEM REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION

RESOLUTION NO. 97-26 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: Hayes Martin and Tom Bailey resigned as members on the Civic Center Commission, both leaving unexpired terms. This resolution will appoint Douglas Haldane to fill out the term of Mr. Martin, term to expire June 30, 1997, at which time he is hereby reappointed to serve a three year term, term to expire June 30, 2000. This resolution will also appoint Carl Mumpower to fill the unexpired term of Mr. Bailey, term to expire June 30, 1998.

Councilman Hay felt that all the candidates were good choices and was pleased that Mr. Mumpower and Mr. Haldane were willing to serve on the Civic Center Commission.

Councilman Hay said that he has been asked about Consent Agenda containing appointments to boards and commissions. City Attorney Oast responded that City Code Section 2-31 directs the City Manager to prepare a Consent Agenda for each Council meeting, said agenda to consist of "routine, non-controversial items that require Council action but need little or no deliberation." That same Code section contains a

non-exclusive list of appropriate Consent Agenda items, which includes "annual appointments." The City Council Rules of Procedure also provide for a Consent Agenda, and lists the somewhat broader "appointments to boards and commissions" among the items appropriate for placement on the Consent Agenda.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Hay moved for the adoption of Resolution No. 97-26. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 18

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE TO ADD A NEW OFFICE BUSINESS DISTRICT

ORDINANCE NO. 2346 - ORDINANCE AMENDING THE ZONING ORDINANCE TO ADD A NEW OFFICE BUSINESS DISTRICT

Mayor Martin opened the public hearing at 5:23 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Erin McLoughlin, Urban Planner, said that the Planning Department has received requests from the public for a zoning district that would allow office uses near residential districts. The current zoning district of Office Institutional is very broad in range of uses and densities. Staff feels that an office/business district with a narrower range of uses and densities would be more compatible for those transition areas near commercial and residential districts. This wording amendment presents a district that could serve as a transition between higher intensity commercial uses and residential areas.

On February 5, 1997, the Planning & Zoning Commission voted 5-1 to recommend approval of an amendment to the Zoning Ordinance which would add an Office Business District to the current ordinance. The Planning staff also recommends approval of this amendment.

When Vice-Mayor Field questioned why restaurants were not included in this new district, Ms. McLoughlin said that they should be a permitted use in this new district and it was an oversight that they were not. Planning staff did recommend they be included.

City Attorney Oast said that it was appropriate to add restaurants as a permitted use to the proposed ordinance at this time. The ordinance should specify if the restaurants were drive-in or not.

Planning & Development Director Julia Cogburn suggested the ordinance be amended to include "restaurants (no drive-in facilities permitted)" under the permitted uses in this new Office Business District.

When Councilman Skalski inquired about the one dissenting vote from the Planning & Zoning Commission, Ms. McLoughlin said that the member wanted both the Office and the Office Business districts be brought to Council for action for additional tools, not just Office Business District. Because of the number of requests for a less intense district than current Office Institutional District, staff felt it would

be appropriate to bring this District forward at this time. Staff is still working on the addition of the other District as well.

Upon inquiry of Councilman Cloninger, Ms. McLoughlin said that if this new District is adopted and someone wanted to rezone their property to this new designation, they would have to go through the entire rezoning process which typically takes one to two months.

When Mayor Martin asked what the advantage was for going forward with this new District, Ms. McLoughlin said that it will allow Planning staff one more tool within which to choose a proper zoning district for an area.

Mr. Richard Green, 203 Blake Mountain Circle, supported Council's consideration of both the Office and the Office Business Districts. It was his understanding that the requests from the public wanted both tools rather just the Office Business District tool.

Mayor Martin closed the public hearing at 5:34 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2346 with the addition of "restaurants (no drive-in facilities permitted)" under the permitted uses in this new Office Business District. This motion was seconded by Councilman Sellers.

On a roll call vote of 6-1 (with Councilman Skalski voting "no"), Ordinance No. 2346 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 148

B. PUBLIC HEARING RELATIVE TO APPROVAL OF WILLOUGHBY RUN TOWNHOUSES

Mayor Martin opened the public hearing at 5:36 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Erin McLoughlin, Urban Planner, said that this is consideration for approval of a twenty seven unit townhouse development at the intersection of Sweeten Creek and Rathfarnham Roads.

The 2.93 acre parcel is zoned CG Commercial General which refers to R-3 standards. R-3 allows 16 units per acre. Twenty-seven units is within the allowed density. This development borders CG Commercial General zoning to the south and R-3 Medium Density Residential zoning to the west. The proposal meets all zoning and group development requirements.

At the February 5, 1997, Planning & Zoning Commission ("Commission") meeting, a member of the public voiced concern about erosion problems already existing on the proposed site.

At the February 5, 1997, meeting, the Commission voted 6-0 to approve the development with the following two conditions: (1) letter from the Water Authority confirming availability; and (2) a public hearing regarding a variance to the setback requirements for accessory

structures. The Planning & Development staff also recommended approval of the group development with the two conditions.

Ms. McLoughlin said that a letter has been received from the Water Authority confirming availability. She also said that on February 11, 1997, City Council set the public hearing for this date on the 15 foot variance request for the setback requirements for an accessory structures for the project.

By use of a map, Ms. McLoughlin showed Council where the 15 foot variance request was being requested.

Upon inquiry of Mayor Martin, Traffic Engineer James Cheeks, said that they have reviewed the request for a development at this intersection and they have performed the necessary traffic analysis. He said that he is comfortable with the development as it stands right now with the addition of the traffic control measures requested. He saw no adverse impact on the adjacent roadway system.

Mayor Martin closed the public hearing at 5:39 p.m.

Councilman Skalski moved to approve the site plan for Willoughby Run Townhouses, located at the intersection of Sweeten Creek and Rathfarnham Roads. This motion was seconded by Vice-Mayor Field and carried unanimously.

Councilman Skalski moved to approve the 15 foot variance to the setback requirements for accessory structures for the project. This motion was seconded by Councilman Worley and carried unanimously.

C. PUBLIC HEARING RELATIVE TO APPROVAL OF GASHES CREEK OFFICE BUILDING

Mayor Martin opened the public hearing at 5:41 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that this is consideration of approval of a 32,750 square foot office building on 1.65 acres located off Gashes Creek Road in East Asheville.

On January 6, 1997, the Planning Department received the site plan for a proposed office building. The proposed project will be a three story, 32,750 square foot office building. The site plan was presented to the Technical Review Committee on January 13, 1997, for their comments.

On February 5, 1997, the Planning & Zoning Commission reviewed the site plan and received only one comment from an adjoining property owner who expressed their support for the project.

City Council will need to consider the following items for the proposed project known as the "Gashes Creek Office Building", located off Gashes Creek Road in East Asheville: (1) the approval of a site plan; (2) the granting of a zoning vested right for Gashes Creek Office Building. The granting of a zoning vested right will extend the approval time period for the project from 1 year to 2 years; (3) The following variances:

(a) variance to the parking space requirements for office buildings. The petitioner is requesting a variance on the number of

parking spaces. The current ordinance requires 1 space per 200 square feet of gross floor area. The petitioner is requesting a variance of 1 space per 275 square feet of gross floor area due to the narrow width of the property. Some of the parking spaces will be on the first level of the three story structure. The variance is for 1 space per 75 square feet of gross floor area.

(b) variance to the street tree requirements regarding location and width of the street tree planting strip. The petitioner is requesting a variance in the location and width of the street tree planting strip required. The ordinance requires a planting strip to be located on the property abutting a public street. The planting strip must be 10 feet wide and 1 tree per 40 linear feet of street frontage. The petitioner is requesting that the planting strip be on the NC DOT right-of-way due to the topography and location of the property and that the planting strip be an average of 10 feet wide. The planting within the right-of-way must be approved by NC DOT and that has been done. The variance is for the location and width of the street tree planting strip.

(c) variance to the landscaping in the off-street parking area. The petitioner is requesting a variance in the width of the landscaping strip between a parking lot and an abutting property line. The ordinance requires a minimum width of 5 feet. The petitioner is requesting that the width of the planting strip be 1 foot on the south side of the property approximately 130 feet in length due to the proposed parking spaces and the configuration of the lot. This distance is between elevations 2118 and 2127. The number of required trees will be planted within the remainder of the planting strip. The variance is for the off-street parking landscaping strip in that specified area to be 4 feet.

(d) variance to the rear setback requirement for an office building. The petition is requesting a variance of the rear setback for an office building. The current ordinance requires a rear setback of 20 feet in an office development. The petitioner is requesting a rear setback of 15 feet. The variance in the rear setback is 5 feet.

The Planning & Zoning Commission voted unanimously to approve of the project with the four variances and one condition which is the submittal of an erosion control plan. The Commission also recommended the granting of the zoning vested rights.

Mayor Martin closed the public hearing at 5:46 p.m.

Councilman Hay moved to approve the following variances: (a) variance to the parking space requirements for office buildings; (b) variance to the street tree requirements regarding location and width of the street tree planting strip; (c) variance to the landscaping in the off-street parking area; and (d) variance to the rear setback requirement for the "Gashes Creek Office Building". This motion was seconded by Vice-Mayor Field and carried unanimously.

Councilman Worley moved to grant the zoning vested right for Gashes Creek Office Building. This motion was seconded by Vice-Mayor Field and carried unanimously.

Vice-Mayor Field moved to approve the site plan for the proposed project known as the "Gashes Creek Office Building" located off Gashes Creek Road in East Asheville. This motion was seconded by Councilman Worley and carried unanimously.

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 97-27 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Harold Enloe has resigned as a member of the Water Authority leaving an unexpired term.

Mayor Martin said that on February 24, 1997, he received a letter from Norma Price which reads as follows: "Russ, thank you for giving me the opportunity to be considered for the Asheville-Buncombe Water Authority. However, at this time, I would like to withdraw my name from further consideration."

Councilman Skalski nominated Nelda Holder for the Water Authority because she is a consumer advocate that will serve well on the board.

Councilman Worley nominated J. Lewis Daniels for the Water Authority.

Vice-Mayor Field spoke in support of Ms. Holder. She felt we needed another woman on the Water Authority to have some balance. She felt there needed to be a balance of opinions on the Water Authority and Ms. Holder represents a side of the community that deserves to be heard on the Water Authority, and that is the environmental community. She felt she was a reasonable and thoughtful person. Her background was exemplary and she has the qualifications to make a good representative.

Councilman Worley said that Mr. Daniels is Vice-President of Mission/St. Joseph's Health System and a CPA by profession. He has excellent financial and managerial skills. He pointed out that the seat vacated was by a person who had a strong financial background and served as Chair to the Budget Committee. He felt it was appropriate for Mr. Daniels to fill that particular seat and bring that same expertise to the Water Authority.

Vice-Mayor Field stated that in her view, all three people interviewed were excellent and a positive vote for one is not a negative vote for the other.

Mayor Martin echoed Vice-Mayor Field's comments and commended each candidate for their inclination to give of their time and their expertise on this very important board. He felt that any one of the three would adequately serve in this capacity.

Councilman Hay also felt that all three candidates were good and capable. He would support Nelda Holder however, not only because of her credentials and her capabilities, but for the role she played in resolving the issues in Montford Hills. She mediated the dispute, was a moderate voice and played the leadership role in the successful resolution of that issue. He was impressed with that and felt that was something we needed on the Water Authority.

Mayor Martin stated that all Council discussions were in open session and even though Council does discuss appointments in worksessions, they don't make their decisions until formal meetings. He said that Council does encourage comments from the public regarding candidates.

Ms. Ginny Lindsey, representing the Clean Water Fund of North Carolina, read a letter sent to Council dated February 3, 1997. The

letter strongly supported Nelda Holder for three reasons: "(1) The Board of the Water Authority has able representation of the business/industrial community. The residential community - the general citizenry - approximately/4 of our water users - need a representative who will be a channel to and from the Authority and a representative on such matters as efficient use of water in households and gardens; public accountability; the promotion of education and information re: water resources, values, costs and environmental considerations in general. Nelda Holder's experience and perspectives prepare her to be an excellent representative of the general interest of citizens. (2) Nelda Holder has a Master's Degree and extended experience in resource management and administration, including courses in hydrology and geomorphology, waste and land management and planning. She has taught environmental science and organizational communications, both areas of value to the Water Authority Board. (3) Nelda Holder has the necessary time to devote to the Authority and its development and wants to serve it and the community in a responsible manner." Said letter was signed by Quality Forward, Citizens for Safe Drinking Water, League of Women Voters, WNC Alliance, Clean Water Fund and Water Efficiency Task Force. She said that the letter also had the support of the Coalition of Asheville Neighborhoods. She personally spoke in support of Ms. Holder because she is a woman and women are vastly under-represented on our boards and commissions in Asheville and Buncombe County. She noted that the Asheville-Buncombe Vision supports appointing women to boards and commissions.

Mayor Martin felt that appointing women to the City's boards and commissions is not a problem. Council is very diligent in looking at the gender makeup, as well as racial, and location in the City. He did state, however, that Council's primary objective is to get the best person for the particular board.

Mr. Ron Lambe spoke in support of Nelda Holder in that she would represent the public interest by way of her background in environmental science and her community perspective.

Mr. Mike Lewis, representing the Coalition of Asheville Neighborhoods, spoke in support of Nelda Holder. He felt that the process regarding this appointment at last week's worksession was very political. He said that given the national and regional coverage devoted to the matters of conflict of interest and how we appoint people, he thought Council would be sensitive to a balance of community representation and possible bias by appointees to the bodies to which Council appoints members. He felt that Mr. Daniels, as an executive employed by one of the Asheville-Buncombe Water Authority's largest customers, has interests which make it impossible for him to render an objective judgment on behalf of the Authority or the welfare of the community. He asked that Mr. Daniels name be withdrawn.

Mayor Martin said that the worksession held last week was in preparation of this formal meeting. Council followed acceptable rules, as they have in the past, which resulted in the two candidates being considered today. He said that it's very marginal, at best, that you can say that Mr. Daniels has a conflict of interest without any proof. He said that there is no conflict of interest that City Council has been able to discern. Certainly business interests must have representation as well. He objected putting into the record as fact that there is a conflict of interest, when it is very difficult to perceive that to be fact.

Mr. Lewis responded that he didn't say the conflict of interest was a fact, just that it certainly appears that there could be a conflict of interest.

Ms. Leni Sitnick said that in honor of Community Oriented Government, she encouraged Council not to take straw votes in worksessions. She didn't feel that the meetings are public enough when Council meets at 3:00 p.m. and most people cannot get there. She felt that appointments to boards and commissions should not be on the Consent Agenda, but conducted in this format to allow public comment. She felt that there should be full representation on the Water Authority. Women are half the population and have at least half of the good ideas. There is only one woman on the Water Authority. In addition, there is no "ordinary residential user" on the Water Authority. Nelda Holder represents the citizen community. She said that Mr. Daniels is a fine and honorable gentlemen, he is a top administrator of one of the top three water users in Asheville which could be perceived to create a potential conflict of interest as a policy-maker on the Water Authority. To be sure, rates and rate structure will be the prominent Water Authority considerations and votes. Mr. Daniels was nominated in part for his financial acumen, a good reason. If Mr. Daniels excuses himself from those rate structure discussions and votes to avoid creating that perception of a potential conflict of interest, then a large part of the reason for his appointment will be null and void. There were three good excellent candidates. She was confident that Ms. Holder would bring to the Water Authority an intelligent, inclusive and visionary prospective that will serve this City well.

Ms. Catherine Gibson, representative of the Montford Hills Neighborhood Association, voiced support for the appointment of Nelda Holder. She said that in the recent Montford Hills issue, Ms. Holder represented a voice of reason throughout the process. While she can be described as an environmentalist, she added reason and moderation in virtually all of the discussion. As a neighborhood advocate, Ms. Holder lends her a very high level of comfort as an addition to the Water Authority.

Mr. Ted Patton, member of the Water Efficiency Task Force ("WET"), stated "As you know, the Water Efficiency Task Force was established by the Water Authority in 1991 to research and study the most efficient use of water as a utility and natural resource for the citizens of Asheville and Buncombe County. The current members of the Water Authority represent a variety of interests and points of view. As you are currently interviewing candidates for the open position on the Authority, we would like to encourage you to appoint someone who will give particular attention to the concerns of the citizens of Asheville, the families and individuals who rely on the produce of the Water Resources Department every day for their basic water needs, and whose main concerns are health (quality of the water), cost, and management which recognizes that water is not an unlimited resource. Although we have not spent time with each of the candidates, we are aware of one who would be an excellent choice, bringing expertise as well as grassroots citizen's point of view to the task. The candidate is Nelda Holder and we request that you give strong consideration to appointing her to the Water Authority."

Ms. Hazel Fobes, representing the Citizens for Safe Drinking Water ("CSDW"), explained their mission statement stating that it is an organization committed to increasing and empowering citizen involvement in decisions about drinking water issues in Buncombe and adjacent counties. Her association, and she personally, has paid close attention to the Water Authority for several years. She said that the WET Force

and CSDW are studying the water rates because they feel they are skewed to the high water users and not to the lesser water users (the residential users). CSDW wants the Water Authority to represent the entire community and all of its groups and interests with more balance in the male and female composition. She has give hours to this community in water related issues so when she makes a recommendation to the City Council for the appointment to the Water Authority, she is basing her recommendation on factual knowledge. She said that Nelda Holder has CSDW's and her personal support. She said the Water Authority now and has for several years has had able representation of the business, commerce and industrial communities - all male, except one woman. Within the past ten years there have been only two woman on the Water Authority and not at the same time. There are 40,000 customers on the Water Authority's list and 33,000 are residential customers. They do not have a representative, as such, on the Water Authority. All the members try to cover the field, but Ms. Holder will cover the interests of residential customers. Ms. Holder would be the liaison between the Water Authority and the residential community. She has a Masters in Management Administration and the Water Authority could find her services valuable. Her studies include hydrology and geomorphology, Coastal Zone Management, waste management, and groundwater contamination. Ms. Holder has had years of communication proficiency. She recommended that Council would put into action Rule 30 of the Rules of Procedure, including putting forward of the names of all possible appointees and a debate prior to a vote on the entire slate. She asked Council give careful consideration to the views of the citizens expressed on the candidates for appointment to the board. The Council should bear in mind and be sensitive to the spirit and content of the Vision Project, especially Part VI on Government.

Mayor Martin called the roll for each member of Council to vote for their preferred candidate for the vacancy on the Water Authority. Mayor Martin and Councilmen Cloninger, Sellers, and Worley voted in favor of J. Lewis Daniels. Vice-Mayor Field and Councilmen Hay and Skalski voted in favor of Nelda Holder.

The resolution will appoint J. Lewis Daniels to fill out the term of Mr. Enloe, term to expire September 30, 1997, at which time he is hereby reappointed to serve a three year term, term to expire September 30, 2000.

Councilman Sellers noted that Buncombe County has two vacancies on the Water Authority this year. In addition to the Buncombe County's two vacancies, the entire board will have a vacancy this year also.

RESOLUTION BOOK NO. 24 - PAGE 19

B. RESOLUTION NO. 97-28 - RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH ANDREX INDUSTRIES INC. TO ALLOW ANDREX TO PLACE MONITORING WELLS AT DEAVERVIEW AND MALVERN HILLS PARKS FOR DETERMINING GROUNDWATER CONTAMINATION

Mr. Irby Brinson, Director of Parks & Recreation, said that the City of Asheville Parks and Recreation Department desires to enter into an agreement with Andrex Industries, Inc., which will allow Andrex to place monitoring wells for determining groundwater contamination.

In July of 1996, the City of Asheville was approached by Andrex Industries, Inc., to allow monitoring wells to be placed at Deaverview and Malvern Hills Parks in order to detect the presence of any groundwater contamination from their plant. The North Carolina Department of Environment, Health, and Natural Resources, Division of

Environmental Management, is requiring Andrex to conduct an assessment relating to groundwater contamination. The Parks and Recreation Department and the Legal Division has been working with representatives from Andrex regarding the time, location, and other matters concerning the monitoring wells. Based upon several revisions, the Parks and Recreation Department and the Legal Division supports this request to allow these monitoring wells to be placed at the above locations.

When Councilman Worley asked if the presence of the wells would interfere with our use of the parks, Mr. Brinson replied that they would not.

Upon inquiry of Vice-Mayor Field about liability, Mr. Brinson said they are ground level and marked in a way that they can be mowed over.

It was the consensus of Council to instruct Mr. Brinson to write a letter to Andrex asking that the City be provided with a copy of the results of testing each time. Mr. Mark Pinkston, representative of Andrex in the audience, indicated by nodding his head that Andrex would provide those results.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 97-28. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 20

C. RESOLUTION NO. 97-29 - RESOLUTION RENAMING THE ASHEVILLE-BUNCOMBE WATER AUTHORITY TO THE REGIONAL WATER AUTHORITY OF ASHEVILLE, BUNCOMBE AND HENDERSON

Councilman Worley said that at Water Authority Retreat, December 3, 1996, a motion passed to recommend to City Council, the renaming of the Asheville-Buncombe Water Authority. As a part of this discussion several names were considered by the Authority. The following outlines those considered by the Authority:

Top Three
1. Regional Water Authority of Asheville, Buncombe and Henderson
2. Regional Water Authority of Western North Carolina
3. Asheville, Buncombe, Henderson Regional Water Authority

Other Suggestions
4. Asheville, Buncombe, Henderson Water Authority
5. ABH Regional Water Authority
6. ABH Water Authority
7. WNC Regional Water Authority

The name recommended for approval by the Authority is Regional Water Authority of Asheville, Buncombe and Henderson.

The process for consideration of a name change for the Water Authority consists of the Water Authority recommending to the City and the County that this be done. The Buncombe County Commissioners approved the name change at their February 4, 1997, meeting.

Vice-Mayor Field preferred the name be "Asheville, Buncombe, Henderson Regional Water Authority." City Attorney Oast said that if the City did not agree with the name change to "Regional Water Authority

for Asheville, Buncombe and Henderson" the other suggested name would have to go back to the Asheville-Buncombe Water Authority.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 97-29. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 21

VI. OTHER BUSINESS:

RESOLUTION NO. 97-30 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO SEEK LEGISLATION AFFECTING ITS CORPORATE BOUNDARIES

City Manager Westbrook, by use of a map, showed City Council the current boundaries of the City of Asheville and the Town of Biltmore Forest and the proposed boundary adjustment, which will be subject to verification by a survey. He explained that he has been working with Biltmore Forest to adjust their shared corporate boundary in a manner that is mutually beneficial to both municipalities and in the best interest of their respective citizens. In order to effect this change, action is required by the North Carolina General Assembly in the form of legislation authorizing the proposed boundary adjustment. This resolution will authorize the proposed boundary adjustment between Asheville and Biltmore Forest to be submitted to the Buncombe County delegation of the North Carolina General Assembly for consideration for introduction as legislation in the 1997 Legislative Session.

He said that the boundary adjustment would be a net increase of about six acres for the City. He mentioned three reasons for the boundary adjustment, i.e., (1) there are some residential areas currently in the City of Asheville that more closely identify with Biltmore Forest than Asheville right now; (2) there is a bit of a service delivery problem for those residential areas and the boundary adjustment would clear up those problems; and (3) there is a proposed developer in the area and Biltmore Forest prefers not to have the commercial development in their Town limits.

Mayor Martin said that members of Council have been previously furnished with copies of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 97-30. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 23

SCHOOL BOARD APPOINTMENTS

Vice-Mayor Field requested the City Attorney advise Council on exactly how the appointment process for the School Board vacancies should occur.

PINNACLES II AT PARK AVENUE

Mr. Richard Green, representing the Coalition of South Asheville Neighborhoods, said that in 1990 the Planning Department granted vested development rights for the Pinnacles at Park Avenue. The Coalition of South Asheville Neighborhoods asked for an investigation in the last 6 months be launched into the granting of those vested development rights. The Planning Department did an investigation stating that the vested

rights were granted properly. Subsequent to that, it was shown that those rights were not granted properly and those vested development rights were revoked. The developer was put on notice that any work on that 13 acre hillside would require City of Asheville's approval. The developer would have to go through back through the group development process. At that time the Planning Department had on file a site plan clearly showing the developer's intention to build an additional 24 units on that hillside. Subsequent to that, the developer and his attorney met with the Planning Department and told Gerald Green (as relayed to him by Mr. G. Green) that since they previously were allowed to circumvent the hillside ordinance, they wanted to circumvent the group development process as well. Their intentions were to do four contiguous subdivisions of 7 units each so that they would stay below the threshold that would require them to have to go through the group development process and the public hearing phase because they did not want to go back through a public hearing phase because they did not want the public challenging their storm drainage plan which a number of people have stated they feel is contrary to North Carolina case law. Mr. Becker, President of the Ballentree Homeowners Association, called him this morning saying that there was construction of houses going up on the area of Park Avenue where the vested rights have been revoked. He called Mr. G. Green and said that he thought it was his understanding that Mr. G. Green was going to make him aware if the developers submitted any kind of plans for new approvals on that hillside. Mr. G. Green stated that Mr. David Quinn, a resident at Ballantree, had contacted him yesterday concerning this construction activity and that he has been on the phone with Mr. Richard Bass in the Building Permit Office. Mr. Bass had verified that the developer had picked up several building permits yesterday and that he was attempting to get Mr. Bass to revoke those building permits since there was no valid reason for those permits being issued. Mr. R. Green then faxed a letter to City Council which informed City Council of the continued illegal activities at the Pinnacles and requested City Council take necessary action to prevent this type of occurrence in the future at this project, as well as other projects, throughout the City of Asheville. Shortly before this meeting, Mr. G. Green phoned him to tell him that he had just received information that the developer had submitted a small area site plan for that 13 acre hillside where the vested rights had been previously revoked and the developer had shown 7 units to be built on that hillside and someone in the Planning Department had approved it. He asked Mr. G. Green how can a sham activity of this magnetite be allowed. Mr. G. Green said that he spoke with Patsy Meldrum in the City Attorney's Office who said she would like to get some direction from City Council stating that sham activities of this nature would not be tolerated. The developer has clearly stated his intentions to the Planning Department that he wants to circumvent the group development and public hearing process by doing four subdivisions of 7 units each that are contiguous - you must drive through each one of the parcels to access the next one. The developer has told a number of homeowners in Park Avenue and Ballentree of his intentions to build not 24 units as originally planned on that hillside, but 28 now because he has had additional site work costs. When he talked to Planning & Development Director Julia Cogburn before the meeting, she stated that it was below the threshold of eight and compliance with the group development process and the public hearing was not required. Mr. R. Green questioned "is City Council going to allow developers to do 1,000 unit condo projects without any public hearing whatsoever, as long as they get approval for seven units at a time, even though the property is all contiguous and you must go through one parcel to access another parcel?" The neighborhood groups in South Asheville would like for City Council to give some direction to the City Attorney's Office, as well as the Planning Department, stating that sham activities of this type will not be tolerated. He has spoken with his

private legal counsel, who has informed him that there is a number of legal precedents on this matter. The Interstate Land Sales Act will not allow developers to do contiguous developments of 49 lots each and circumvent the Interstate Land Sales Act. His real estate attorney, who does not want to be quoted, questions why the City of Asheville would tolerate anything of this nature.

Planning & Development Director Julia Cogburn said that this was called to her attention this afternoon. She has checked into it to a certain extent. As she understands it, as she has not actually seen the documentation, four permits were issued for 4 units of a 7 unit proposal. The four building permits were issued prematurely by the City's Zoning Enforcement Office. Mr. Kiger, the developer, has been informed that these were inappropriately issued. However, a site plan has been submitted for 7 units on some property owned by Mr. Kiger. There is no reason that we cannot approve that at the staff level at this time and have that approval ready for Mr. Kiger tomorrow so that his building permits will be validated by the accompanying site plan approval. In terms of any subsequent development, they will have to deal with that as it comes in. What is before the Planning Department at this time is 7 units, which is underneath the threshold for group development.

Mayor Martin said it's not our policy to do continue to allow the building of repetitive 7 units in order to circumvent our ordinance.

Ms. Cogburn said that they would have to look at the context of those 7 units and see whether or not the application of the ordinance was appropriate in terms of group development review. So it's very difficult to make a judgment about that until we see what the actual application says that is submitted to them.

Councilman Worley questioned if our ordinance has language in it that would prevent a repetitive 7 units, where it would appear after you see the second and third groupings that it is part of a plan. Ms. Cogburn said that our current ordinance said that "types of projects subject to group development review - the types of projects which shall be reviewed under the procedures described in Section 30-6-2 include new construction or any structural alterations which would result in the rehabilitation, redesign, or reconstruction of a building or structures and which fall into one or more of the following categories: (b) any mobile home park, camper trailer park, or multi-family residential building or structure containing eight or more individual units." She again said that she would really need to look at whatever was submitted to them carefully to really make a determination.

Mayor Martin suggested this matter be looked at this in terms of the new Unified Development Ordinance so we don't find ourselves with a loophole where someone can legally circumvent the actual intent of the ordinance.

Councilman Worley asked the City Attorney's Office to check research this issue in the context of the current ordinance as well as the UDO.

Ms. Cogburn said that the UDO thresholds are substantially greater than this threshold, so that would need to be taken into consideration as well.

Councilman Cloninger noted that the UDO also has some language about the steepness of slope and so forth that would prevent large multi-family units. Ms. Cogburn said that the hillside ordinance

applies to properties that are over certain slopes which reduces the density that is permitted. The mapping, however, is actually what you look at in terms of the density and City staff has been conscientious of the topography issues when they have indicated density. We have proposed lower density on steeper slopes.

City Attorney Oast said that his office recently has been involved in consideration of whether a road in that area constituted a subdivision of land. He didn't recall any specific discussion about the phased development coming to his office, although Ms. Meldrum may have reviewed something. And he certainly didn't recall indicating to anyone that they would have to go to Council to seek direction. His office may have indicated that they would talk to the City Manager about issues regarding the Pinnacles.

Mayor Martin said that he was very concerned about someone taking advantage of what appears to be a possible loophole.

City Attorney Oast said that there are mechanisms available legally for dealing with that but he would have to investigate whether they are contained in our current Code. He said that he would report back to Council next week about what is available in this context.

Councilman Skalski asked if Council is going to allow this developer to continue to develop this 24 unit project. Ms. Cogburn said what will control is if the developer meets the standards of the ordinance.

Councilman Worley said that it was his feeling that Council definitely wants their ordinances enforced with no loopholes in them. If the ordinance has a flaw in it and we can't stop it, then we can't stop it. But he's hoping that we find that it doesn't have a flaw in it and the ordinance can be enforced and that this project not go forward under a loophole or a back-door way of getting in. If there is a flaw, then we need to fix it.

Councilman Skalski asked while we are figuring out if it is legal or illegal for this developer to continue, is Council going to allow him to continue or are we going to ask him to stop until we decide whether or not it's legal?

Mayor Martin said that the Planning Department and the City Attorney's Office has been instructed to look at the facts and see what Council can do. We are not trying to let someone circumvent the rules so we need to find out legally where we stand before we take action. It is not consensus here to permit something to go on and circumvent our rules.

Ms. Cogburn advised Council that insofar as the 7 units are concerned, there is no circumvention of anything and that those 7 units are in the perviews of the ordinance, as far as she has been able to check today. She will be issuing permits for those 7 units tomorrow. She will be looking at what can happen beyond those seven units, however, there is no reason for her to not issue those permits tomorrow.

Councilman Hay said that if another site plan comes in for 7 more units between now and the time we hear from the City Attorney next week, has Ms. Cogburn heard enough from Council to table that? Ms. Cogburn said that she would work with the developer to see about slowing things down. She felt the developer would be concerned with Council's concerns as well.

Vice-Mayor Field felt that we are only hearing the property owners' sides and the developer is not present to say that he is attempting to circumvent anything. All we have is an application for a permit to build 4 units, which were issued inappropriately. Ms. Cogburn stated however, that there is a site plan for seven units which we can approve.

Mayor Martin reiterated that staff will investigate the allegations so that no one can circumvent the rules.

UNITY IN DIVERSITY DAY

At the request of Ms. Johnice, Mayor Martin proclaimed Saturday, March 22, 1997, as "Unity in Diversity Day" in the City of Asheville. Ms. Johnice briefed the Council on activities that would be taking place that day and invited all Council to attend.

FRENCH BROAD RIVER WHITEWATER RAFTING

Mr. Rob Goins invited Mayor and Council to be guests of Nantahala Outdoor Center to officially open the 1997 Whitewater Season on the French Broad River on Saturday, April 5 1997, at 11:00 p.m.

CLAIMS

The following claims were received by the City of Asheville during the week of February 7-20, 1997: Joe Floyd (Water), Kimberly Miller (Streets), David W. Robinson (Water) and Ken Butler (Civic Center).

These claims have been referred to Asheville Claims Corporation for investigation.

LAWSUIT

The City was served with the following Complaint on February 12, 1997: Samuel Lee Stewart Sr. v. Allen W. Presnell, individually and as an agent of the Asheville City Police Department, City of Asheville, and Tom Baldwin, individually and as agent for Hamricks Inc. The Complaint is for false arrest, false imprisonment and assault and battery.

This matter will be handled by an attorney outside the City Attorney's Office.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:07 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - March 4, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Vice-Mayor Barbara Field

CONSENT:

Bids on Water Meters

Summary: Recommendation for award of Bid Request No. 462-97, to establish a purchase contract for furnishing the City's estimated two year requirement of 5/8 inch and 1 inch water meters less trade-in of used meters.

Pursuant to N.C.G.S. sec. 143-129 and 160A-268, and in compliance with the City's Minority Business Plan, sealed bids were received to establish a two year term purchase contract for the estimated requirement of 8,000 each 5/8 inch and 200 each 1 inch water meters, less trade-in of equal quantities of scrapped 5/8 inch and 1 inch meters. These meters will be purchased as needed and maintained in Central Stores inventory in support of the Water Resources Department's meter change out program and new installations. Three bids were received as shown below:

Schlumberger Ind. Inc., Roswell, GA	$451,000
ABB Water Meters, Ocala, FL	$520,300
Sensus Tech, Inc., Uniontown, PA	$611,370

Bids have been reviewed for compliance to specifications by Liz Calloway, Customer Services Division, and Mike Holcombe, Water Resources Department, and their concurrence received in the following recommendation.

Subject to Council's approval, it is recommended that the City enter into a purchase contract with the low bidder, Schlumberger Industries, Inc., Roswell, Georgia, for the purchase of 8,000 each 5/8 inch water meters at $58.30 each with a trade-in allowance for 8,000 each old 5/8 inch water meters at <$4.00> each; and 200 each 1 inch water meters at $92.00 each with a trade-in allowance for 200 each old 1 inch water meters at <$9.00> each for a total net bid of $451,000.00.

Louisiana Avenue Change Order

Summary: The consideration of a change order for the North Louisiana Avenue work performed by contractor requested by N. C. Dept. of Transportation.

The City Council awarded a bid for sanitary sewer improvements on August 27, 1996, for the North Louisiana Avenue Sewer Improvements. These funds were to be used for sanitary sewer improvements along North Louisiana Avenue.

The Engineering Department has administered the contract for the installation of the sewer line along North Louisiana Avenue. The construction of this project is now complete. Due to the pavement restoration requirements of the N.C. Dept. of Transportation for the sanitary sewer line in the roadway, and elevation conflicts with an

existing storm drainage pipe this addition of materials, equipment and labor associated with the added work, staff requests an increase in the total project costs to $45,945.00. The total project cost including this change order is $220,945.10.

Staff recommends that City Council accept this change order and approve the separate item for appropriation of funds for the North Louisiana Sewer Improvements and authorize the City Manager to execute all necessary documents for the contract close out.

Budget Amendment - North Louisiana Avenue Sewer Improvements Project

Summary: This project was budgeted in the Fiscal 1996/97 Capital Improvement Plan at $175,000, and an additional appropriation of $45,945 is needed to fund change orders.

This project was included for funding in the Fiscal 1996/97 Wastewater Extension Plan in the amount of $175,000. A change order to the contract for construction of this line is being presented to City Council for approval. Additional funding is requested totaling $45,945 to complete the project. Funding is available in the Sewer Extension Fund fund balance.

Set Public Hearing to Demolish 14 Michigan Avenue

Summary: The consideration of a resolution setting a public hearing for the adoption of an ordinance directing the demolition of 14 Michigan Avenue.

14 Michigan Avenue is a dilapidated structure. The owners Fethi A. and Vicki P. Korkmaz have not responded to the Order of the Director Designee of the Building Safety Department to repair or demolish this structure. Inspector Ray Pruitt found the following conditions, which have been documented by still photographs and videotape:

- Structure has been severely damaged by fire;
- The Walls, floors, and roof are structurally unsound;
- The heating, electrical and plumbing systems are damaged beyond repair.

Inspector Ray Pruitt sent a correction order to the property taxpayer of record on January 18, 1995. There was no response. A formal hearing was then scheduled and held on March 22, 1995, and the only respondent was Bill Clark of First Citizens Bank who holds the first mortgage on the property. His comments reflected ours. The cost to repair or replace greatly exceeded 50% of the current value. First Citizens had no plans to repair or replace the structure. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the owners Fethi A. and Vicki P. Korkmaz to repair or demolish 14 Michigan Avenue within 30 days on February 26, 1996. As of this date, no action has been taken by the owner of legal record.

N.C.G.S. 160A-443(5) authorizes the City Council to direct by ordinance the demolition of a dilapidated structure such as 14 Michigan Avenue subsequent to failure of the owners Fethi A. and Vicki P. Korkmaz to demolish or repair as described above, N.C.G.S. 160A-443(6) authorizes placement of a lien on the property to recover the cost of a demolition so ordered by City Council.

The following is an overview of some general information regarding this property:

- Fair market value of structure is $27,600.00.
- Estimated value to rebuild the structure only is $116,760.00.
- Land value without the structure is $9,000.00.
- Estimated cost to demolish the structure is $15,000.00.

The Building Safety Director recommends adoption of the resolution setting the public hearing regarding demolition of 14 Michigan Avenue.

Possession of Malt Beverages and/or Unfortified Wine at St. Patrick's Day Festival

Summary: The consideration of a resolution to allow for consumption and possession of malt beverages and/or unfortified wine at the St. Patrick's Day Festival.

North Carolina General Statute sec. 18B-300 (c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on public streets, and on public property owned, occupied or controlled by the City of Asheville. The Asheville City Council has adopted an ordinance pursuant to the statutory authority. Section 11-11 of Code of Ordinances provides that the City may adopt a resolution making other provisions at special events and community festivals. The 1997 St. Patrick's Day Committee and the Parks and Recreation Department recommend that possession and consumption of malt beverages and/or unfortified wine be allowed at the 1997 St. Patrick's Day Festival.

The Parks and Recreation Department recommends that City Council adopt a resolution allowing for consumption and possession of malt beverages and/or unfortified wine at the St. Patrick's Day Festival.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

FIRE STATION 4 (SKYLAND) UPDATE

Fire Chief John Rukavina presented plans for construction of a new fire station in Asheville to serve the south Asheville area have been completed.

Via an agreement with the Skyland Fire Department, the City of Asheville was granted a lease on land at the southeast corner of Hendersonville Road and Miller Road for construction of a new fire station for the City of Asheville. This station will house Asheville Engine 4, which serves the south Asheville area.

In order to use the available land most efficiently, Asheville and the Skyland Fire Department are each constructing new fire stations at this location, and the stations will share some structural elements. From the outside, the Asheville and Skyland stations will have the appearance of one building.

The construction plans also include a design for inclusion of a substation for the Asheville Police Department within the Station 4 building.

He showed (1) a copy of the floor plan for the station, and (2), a copy of an elevation plan of the station.

Asheville Station 4 has been designed as a "no-frills" facility. Its external appearance will be plain, but plans are underway to develop signage that is consistent with the City's sign ordinance that will add to the exterior aspect of this fire station.

Upon inquiry of Councilman Worley, Fire Chief Rukavina said that he hoped the building would be completed in November of this year.

When Councilman Skalski asked if the new building would be able to handle growth in the area, Fire Chief Rukavina said that it would.

1997 SUMMER YOUTH PROGRAM

Ms. Roxie Wynn, Assistant Personnel Director, said that staff is requesting that City Council determine, by March 31, whether a Summer Youth Program will be funded in FY 97-98.

Asheville City Council has appropriated up to $100,000 annually since 1992 to fund a Summer Youth Program. The program's purposes have been to employ "at-risk" City youth and to promote positive work ethics and healthy lifestyles. To qualify, applicants needed to be 14 - 18 years of age, a resident of Asheville and a student in a public or private school system. In 1992, the applicant's gross income was also considered. Highlights of the last two programs are below:

1996 Summer Youth Program

*A decision to fund the program was made on March 19, 1996. Council recommended preparing a breakdown of family income to determine if low-income families were benefiting from the program.

*194 youth were interviewed by 20 volunteers including City employees and members of the community.

*63 youth and 1 Program Administrator/Counselor were hired.

*60 youth participated in an all day training session sponsored by A-B Technical College.

*Youth were paid $4.25 - $4.65 depending on whether they had participated in a prior City of Asheville Summer Youth Program.

*Youth worked 20-30 hours/week in eight (8) City departments, six (6) United Way agencies, the Chamber of Commerce, the Asheville Housing Authority, the Interdenominational Ministerial Alliance (IMA) Summer Camp, the YMCA and YWCA.

*Total direct cost was $61,885.

1995 Summer Youth Program

*A decision to fund the program was made in late March. Council recommended (1) a reduction in the hours worked to increase the employment opportunities for more youth; (2) placement of 6 - 8 participants in the Public Works Department to assist with litter clean-up; (3) placement of 11 youth in the Parks and Recreation Department to clean up inside and outside of various parks, recreation centers and pool facilities; and (4) appointment of a Council liaison to assist with promotion/recruitment in the community.

*80 youth, 1 part-time Program Administrator/Counselor and 1 part-time Counselor were hired.

*Youth were paid $4.25 - $4.65/hour depending on whether they had participated in a prior City of Asheville Summer Youth Program.

*Youth worked 20-30 hours/week in various City Departments and at the United Way and Asheville Housing Authority.

*Total direct cost was $99,274.43. This amount included a $5,000 outside contribution to the Interdenominational Ministerial Alliance (IMA) Summer Camp.

NOTE: The City funded positions for two non-profit agencies (United Way and Asheville Housing Authority).

Staff submits the following options for Council's consideration:

Option A
Fund the program at $100,000 (or some lower amount).

Option B
Privatize.

Option C
No longer fund the program.

Staff recommends funding the program at $100,000.

Councilman Hay wondered if this program should be reviewed by the Council Outside Agency Committee in the future. Mayor Martin said that because the program needs to begin in March, Council has, for the past six years, reviewed this program separately. City Manager Westbrook said that the funds are available in the non-departmental fund.

Upon inquiry of Councilman Skalski, Ms. Wynn furnished Council with copies of last year's breakdown of the family income range for the 1996 Summer Youth Program.

There was discussion about the One Youth at a Time Program which Rev. L.C. Ray provided information to Council earlier in February. It was the consensus of Council to fund the City's 1997 Summer Youth Program at $100,000 and instructed staff to meet with Rev. Ray to see how the City's Summer Youth Program and the One Youth at a Time Program can compliment each other. City Manager Westbrook said that he would make an effort to report back to City Council next week.

WAIVER OF HIGH FEES AMNESTY PERIOD

City Attorney Oast said that this is consideration of a resolution amending the Fees and Charges Manual of the City Of Asheville to waive permit fees for a sixty-day period for those nonconforming signs still needing to come into compliance with Appendix A - Zoning of the Code of Ordinances of the City of Asheville

The City of Asheville's Planning and Development Department has initiated the final phase of enforcement of the nonconforming sign amortization provision (City Code sec. 30-9-10) of the City's Zoning Ordinance. This provision, adopted in August, 1990, requires that some nonconforming signs come into compliance by August 28, 1995. The City is providing individuals and businesses whose signs are subject to this

provision with notification of their nonconformity and is requiring that nonconforming signs be brought into compliance within thirty (30) days.

The Fees and Charges Manual of the City of Asheville requires that all signs being altered or erected receive a sign permit and pay a sign permit fee of $1.50 per square foot with a minimum of $25. Staff recommends that this fee be waived for those who receive a notice of noncompliance and obtain a permit to bring the signs into compliance within a sixty (60) day period. This 60-day "amnesty" period begins upon receipt of the notice of noncompliance.

This resolution amends the Fees and Charges Manual of the City of Asheville to provide for this limited fee waiver.

Councilman Hay was concerned that the people who did bring their signs into compliance when they were supposed to had to pay the application fee, and now others who did not bring their signs into compliance are having the fee waived. City Attorney Oast understood Councilman Hay's concern and noted that if individuals pursue that line of reasoning, they will bring those concerns to Council for appropriate discussion.

Ms. Sharon Allen, Code Enforcement Officer, updated Council on the notification process to date, stating that many of people whose signs are not in compliance had just basically forgotten the deadline for bringing those signs into compliance.

When Councilman Skalski asked about how many signs were in the City, Ms. Allen stated that she didn't have that figure with her but she would provide that information to Council.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

RESOLUTION NO. 97-31 - RESOLUTION FOR PASSENGER TRAIN SERVICE

Mayor Russ Martin read the resolution stating that the City of Asheville has been without passenger rail service for more than 25 years. The N. C. Dept. of Transportation has recommended restoring passenger train service to the Asheville area through the State's Transit 2001 plan. This plan would make the City of Asheville a western terminus for a passenger line connecting with Amtrak routes in Salisbury or Greensboro and Raleigh, opening opportunities for connections throughout the U.S. eastern seaboard. The City of Asheville is said to be the most requested destination in phone inquiries to Amtrak not on its taxpayer subsidized nationwide passenger network. He said that providing rail service to the City of Asheville would provide additional travel options for Asheville residents and business people. Rail service would attract visitors and conventions to the City of Asheville and have a positive economic impact on the local community. This resolution would endorse the N. C. Dept. of Transportation plan to bring passenger rail service to the City of Asheville.

Councilman Cloninger moved to waive the rules and take formal action on this item at this time. This motion was seconded by Councilman Worley and carried unanimously.

Councilman Cloninger moved for the adoption of Resolution No. 97-31. This motion was seconded by Councilman Worley and carried unanimously.

Councilman Cloninger asked that the resolution be sent to Governor Hunt, the N.C. Department of Transportation, and the local delegation.

RESOLUTION BOOK NO. 24 - PAGE 25

OTHER ITEMS

Councilman Cloninger asked that the City of Asheville aggressively pursue President Clinton's American Rivers Heritage Initiative Program to have the French Broad River designated as part of that Program. He stated that the designation would qualify the French Broad River to apply for federal funds that would assist us in housing, riverfront development, greenways, etc. He suggested Ms. Karen Cragnolin be invited to Council's next worksession to discuss the program.

Mayor Martin said that he has already written a letter to Washington asking that the French Broad River be considered part of that Program. Councilman Worley also noted that a Task Force is being formed that will be working on that as well.

Councilman Cloninger said that he would like to report at the next worksession efforts to approach the Metropolitan Sewerage District in working out permission to use their rights-of-way in some areas for the development of greenways.

City Council instructed the City Manager to investigate to see what role, if any, the City can play in preserving Appalachian Hall from possibly being demolished.

Councilman Cloninger was interested in having more civic organizations report to City Council during their worksessions to keep the Council informed of their activities.

Mayor Martin inquired about the City's application to become designed an All American City and stressed that City Council was very much in favor of the efforts being made to pursue this designation.

CLOSED SESSION

At 3:50 p.m., Councilman Skalski moved to go into closed session to consult with the City's attorney in order to preserve the attorney-client privilege between the City and its attorney. The parties in the matters about which the City expects to receive advice are: Historic Resources Commission, Board of Adjustment, Montford Neighborhood, Asheville Housing Authority, Michael Wrightson, Elena Scott, City of Asheville and Taylor & Murphy Construction Company. The statutory authority is G.S. 143-318.11 (a) (3). This motion was seconded by Councilman Worley and carried unanimously.

At 4:15 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:15 p.m.

Magdalyn Burleson
CITY CLERK

MAYOR

Tuesday - March 11, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Hay gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MARCH 13-14, 1997, AS "WALKABLE COMMUNITIES CONFERENCE DAYS"

Mayor Martin read a proclamation proclaiming March 13-14, 1997, as "Walkable Communities Conference Days" in the City of Asheville. He presented the proclamation to Mr. Gerry Hardesty, Co-Chairman of the Walkable Communities Conference, who briefed the Council on what will be happening during the conference.

B. PROCLAMATION PROCLAIMING THE WEEK OF MARCH 17-23, 1997, AS "20TH ANNIVERSARY 'HI NEIGHBOR' WEEK"

Mayor Martin read a proclamation proclaiming the week of March 17-23, 1997, as "20th Anniversary 'Hi Neighbor' Week" in the City of Asheville. He presented the proclamation to Mr. Keith Murlless, President of the Asheville Volleyball Club, who briefed the Council on some activities taking place during the week.

Councilman Worley noted that this event has a substantial economic impact on the City of Asheville.

C. PROCLAMATION PROCLAIMING MARCH 22, 1997, AS "UNITY IN DIVERSITY DAY"

Mayor Martin read a proclamation proclaiming March 22, 1997, as "Unity in Diversity Day" in the City of Asheville. He presented the proclamation to Ms. Johnice who briefed the Council on some activities taking place during that day.

D. PROCLAMATION PROCLAIMING THE WEEK OF MARCH 24-30, 1997, AS "COMMUNITY DEVELOPMENT WEEK"

Mayor Martin read a proclamation proclaiming the week of March 24-30, 1997, as "Community Development Week" in the City of Asheville. He presented the proclamation to Mr. Marvin Vierra, Director of Community Development, who briefed the Council on some activities taking place during the week.

Councilman Hay said that he was pleased to be a part of the Housing & Community Development Committee in that it gives him a real good glimpse of what is going on in our community. He said that the City has many capable organizations and it will be a hard decision for him to portion out the available CDBG funds.

II. CONSENT:

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 25, 1997, AND THE WORKSESSION HELD ON MARCH 4, 1997

B. RESOLUTION NO. 97-32 - RESOLUTION TO AWARD CONTRACT FOR WATER METERS

Summary: Recommendation for award of Bid Request No. 462-97, to establish a purchase contract for furnishing the City's estimated two year requirement of 5/8 inch and 1 inch water meters less trade-in of used meters.

Pursuant to N.C.G.S. sec. 143-129 and 160A-268, and in compliance with the City's Minority Business Plan, sealed bids were received to establish a two year term purchase contract for the estimated requirement of 8,000 each 5/8 inch and 200 each 1 inch water meters, less trade-in of equal quantities of scrapped 5/8 inch and 1 inch meters. These meters will be purchased as needed and maintained in Central Stores inventory in support of the Water Resources Department's meter change out program and new installations. Three bids were received as shown below:

Schlumberger Ind. Inc., Roswell, GA	$451,000
ABB Water Meters, Ocala, FL	$520,300
Sensus Tech, Inc., Uniontown, PA	$611,370

Bids have been reviewed for compliance to specifications by Liz Calloway, Customer Services Division, and Mike Holcombe, Water Resources Department, and their concurrence received in the following recommendation.

Subject to Council's approval, it is recommended that the City enter into a purchase contract with the low bidder, Schlumberger Industries, Inc., Roswell, Georgia, for the purchase of 8,000 each 5/8 inch water meters at $58.30 each with a trade-in allowance for 8,000 each old 5/8 inch water meters at <$4.00> each; and 200 each 1 inch water meters at $92.00 each with a trade-in allowance for 200 each old 1 inch water meters at <$9.00> each for a total net bid of $451,000.00.

RESOLUTION BOOK NO. 24 - PAGE 26

C. MOTION SETTING A PUBLIC HEARING AT 5:00 P.M. ON MARCH 26, 1997, IN THE BANQUET ROOM OF THE ASHEVILLE CIVIC CENTER TO CONSIDER THE TEXT FOR THE UNIFIED DEVELOPMENT ORDINANCE

D. MOTION SETTING A JOINT PUBLIC HEARING WITH THE ASHEVILLE PLANNING & ZONING COMMISSION AT 5:00 P.M. ON APRIL 23, 1997, IN THE BANQUET ROOM OF THE ASHEVILLE CIVIC CENTER TO CONSIDER THE NEW ZONING MAPS FOR THE UNIFIED DEVELOPMENT ORDINANCE

E. RESOLUTION NO. 97-33 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CHANGE ORDER WITH BUCKEYE CONSTRUCTION COMPANY FOR THE LOUISIANA AVENUE SEWER IMPROVEMENTS PROJECT

Summary: The consideration of a change order for the North Louisiana Avenue work performed by contractor requested by N. C. Dept. of Transportation.

The City Council awarded a bid for sanitary sewer improvements on August 27, 1996, for the North Louisiana Avenue Sewer Improvements. These funds were to be used for sanitary sewer improvements along North Louisiana Avenue.

The Engineering Department has administered the contract for the installation of the sewer line along North Louisiana Avenue. The construction of this project is now complete. Due to the pavement restoration requirements of the N.C. Dept. of Transportation for the sanitary sewer line in the roadway, and elevation conflicts with an existing storm drainage pipe this addition of materials, equipment and labor associated with the added work, staff requests an increase in the total project costs to $45,945.00. The total project cost including this change order is $220,945.10.

Staff recommends that City Council accept this change order and approve the separate item for appropriation of funds for the North Louisiana Sewer Improvements and authorize the City Manager to execute all necessary documents for the contract close out.

RESOLUTION BOOK NO. 24 - PAGE 28

F. RESOLUTION NO. 97-34 - RESOLUTION CALLING FOR A PUBLIC HEARING ON MARCH 25, 1997, TO DEMOLISH 14 MICHIGAN AVENUE

RESOLUTION BOOK NO. 24 - PAGE 29

G. RESOLUTION NO. 97-35 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ST. PATRICK'S DAY FESTIVAL

Summary: The consideration of a resolution to allow for consumption and possession of malt beverages and/or unfortified wine at the St. Patrick's Day Festival.

North Carolina General Statute sec. 18B-300 (c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and unfortified wine on public streets, and on public property owned, occupied or controlled by the City of Asheville. The Asheville City Council has adopted an ordinance pursuant to the statutory authority. Section 11-11 of Code of Ordinances provides that the City may adopt a resolution making other provisions at special events and community festivals. The 1997 St. Patrick's Day Committee and the Parks and Recreation Department recommend that possession and consumption of malt beverages and/or unfortified wine be allowed at the 1997 St. Patrick's Day Festival.

The Parks and Recreation Department recommends that City Council adopt a resolution allowing for consumption and possession of malt beverages and/or unfortified wine at the St. Patrick's Day Festival.

RESOLUTION BOOK NO. 24 - PAGE 31

H. MOTION SETTING A PUBLIC HEARING ON MARCH 25, 1997, TO REZONE A PORTION OF 1899 HENDERSONVILLE ROAD FROM R-2 MEDIUM DENSITY RESIDENTIAL TO OB OFFICE BUSINESS DISTRICT

I. MOTION SETTING A PUBLIC HEARING ON MARCH 25, 1997, TO AMEND THE ZONING ORDINANCE RELATIVE TO THE LOCATION AND INSTALLATION STANDARDS OF TELECOMMUNICATIONS TOWERS

J. **MOTION SETTING A PUBLIC HEARING ON MARCH 25, 1997, TO AMEND THE ZONING ORDINANCE TO ESTABLISH A NEW OFFICE DISTRICT**

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCE:

A. **ORDINANCE NO. 2347 - BUDGET AMENDMENT RELATIVE TO THE NORTH LOUISIANA AVENUE SEWER IMPROVEMENT PROJECT**

Summary: This project was budgeted in the Fiscal 1996/97 Capital Improvement Plan at $175,000, and an additional appropriation of $45,945 is needed to fund change orders.

This project was included for funding in the Fiscal 1996/97 Wastewater Extension Plan in the amount of $175,000. A change order to the contract for construction of this line is being presented to City Council for approval. Additional funding is requested totaling $45,945 to complete the project. Funding is available in the Sewer Extension Fund fund balance.

ORDINANCE BOOK NO. 16 - PAGE 152

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance on the Ordinance Consent Agenda and it will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, the Ordinance Consent Agenda was adopted on its first reading.

III. PUBLIC HEARINGS:

A. **PUBLIC HEARING RELATIVE TO CONSIDERATION OF PURCHASE OF SHILOH COMMUNITY CENTER PROPERTY**

RESOLUTION NO. 97-36 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A NOTE AND DEED OF TRUST FOR THE PURCHASE OF THE PROPERTY

Mayor Martin opened the public hearing at 5:18 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Irby Brinson, Director of Parks & Recreation, said that this resolution would authorize the City Manager to execute an installment contract and other documents for the purchase of the property on which the Shiloh Center is located.

The Buncombe County Board of Education now owns the property on which the Shiloh Community Center is located and the City has been leasing that property since December 1, 1976. The City of Asheville desires to purchase this property for its continued use for the Shiloh

Community Center and The Buncombe County Board of Education has agreed to sell the property to the City and has agreed to finance the purchase price for this property over a five (5) year period. The Buncombe County Board of Education will hold a security interest in the property until payment in full. Pursuant to N. C. Gen. Stat. sec. 160A-20, a public hearing will be held on March 11, 1997, for the purpose of hearing public comments regarding the purchase of real property by installment contract.

This resolution would authorize the City Manager to execute an installment contract, in the form of a promissory note and deed of trust, and related documents for the purchase of this property. The purchase price will be $250,000, payable in five annual installments of $50,000, commencing in Fiscal Year 97/98. Payments will be secured by a deed of trust for the property to the benefit of The Buncombe County Board of Education.

The Parks and Recreation Department and the City Attorney's Office recommend adoption of this resolution.

Mayor Martin closed the public hearing at 5:20 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Skalski moved for the adoption of Resolution No. 97-36. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 33

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. MOTION RELATIVE TO THE 1997 SUMMER YOUTH PROGRAM

Ms. Roxie Wynn, Assistant Personnel Director, said that staff is requesting that City Council determine, by March 31, whether a Summer Youth Program will be funded in FY 97-98.

Asheville City Council has appropriated up to $100,000 annually since 1992 to fund a Summer Youth Program. The program's purposes have been to employ "at-risk" City youth and to promote positive work ethics and healthy lifestyles. To qualify, applicants needed to be 14 - 18 years of age, a resident of Asheville and a student in a public or private school system. In 1992, the applicant's gross income was also considered.

Ms. Wynn then reported that on March 6, 1997, she has met with Rev. L. C. Ray, President/ CEO, Robbie Williams, Director and Matthew Bacoate of the One Youth At a Time Program (OYAAT). They discussed OYAAT and the City's Summer Youth Program (SY).

The following summarizes the features of the two programs.

1. OYAAT is a job training and placement program.
   SY is a youth employment and on-the-job training program.

2. OYAAT is a 10 week program starting 3/31/1997 and ending 6/6/97. Another class starts 8/11/97 and ends 10/17/97.
SY is an 8 week program starting 6/16/97 and ending 8/8/97 (It coincides with and supports the City's Parks and Recreation Summer Program).

3. OYAAT targets youth in school, drop-outs and young adults (up to age 25).
SY targets youth ages 14 - 19, currently in school.

4. OYAAT targets at risk youth and delinquent youth.
SY targets at risk youth.

5. OYAAT's target is 17 youth (first class) and 12 young adults (second class).
SY's target is 100 youth.

6. OYAAT obtain referrals from the Juvenile Courts, Schools, Juvenile Detention Centers, Churches, Homes and Individuals.
SY obtains referrals from the community-at-large via schools and any other source.

7. OYAAT uses income guidelines as a criteria to select participants.
SY does not use income guidelines as a criteria to select participants; it is open to all City residents.

8. OYAAT is an independent non-profit 501 (c) 3 program.
SY is a City sponsored program.

Staff recommends the adoption of Option A (Funding the program at $100,000 or some lower amount) with the following conditions:

1. Designate at least three (3) slots/placement from OYAAT's June 6, 1997, graduates to work in the City's Summer Youth Program. These youth will go through the same recruitment and selection procedures as other participants.

2. Incorporate applicable sections of the OYAAT training curriculum into the SY training component and hire their instructors, if possible.

3. Evaluate the OYAAT and SY partnership efforts for future consideration by September 30, 1997.

Mayor Martin was pleased with the outcome of working with OYAAT. It showed that the City does make an effort to improve the Summer Youth Program.

All of Council expressed their appreciation to Ms. Wynn for working with Rev. Ray on this program.

Councilman Cloninger moved to fund the City's 1997 Summer Youth Program at $100,000 with the above-mentioned three conditions recommended by staff. This motion was seconded by Councilman Worley and carried unanimously.

B. RESOLUTION NO. 97-37 - RESOLUTION AMENDING THE FEES AND CHARGES MANUAL TO WAIVE THE SIGN FEES AMNESTY PERIOD

Planning & Development Director Julia Cogburn said that this is consideration of a resolution amending the Fees and Charges Manual of the City Of Asheville to waive permit fees for a sixty-day period for

those nonconforming signs still needing to come into compliance with Appendix A - Zoning of the Code of Ordinances of the City of Asheville

The City of Asheville's Planning and Development Department has initiated the final phase of enforcement of the nonconforming sign amortization provision (City Code sec. 30-9-10) of the City's Zoning Ordinance. This provision, adopted in August, 1990, requires that some nonconforming signs come into compliance by August 28, 1995. The City is providing individuals and businesses whose signs are subject to this provision with notification of their nonconformity and is requiring that nonconforming signs be brought into compliance within 30 days.

The Fees and Charges Manual of the City of Asheville requires that all signs being altered or erected receive a sign permit and pay a sign permit fee of $1.50 per square foot with a minimum of $25. There was a provision on the ordinance adopted in 1990 giving businesses and individuals a three year window of time to change their signs without paying a fee. We have received a number of calls of concern from people who have received their notice that they are having to go through the expense of changing their signs and also paying the permit fee. Staff recommends that this fee be waived for those who receive a notice of noncompliance and obtain a permit to bring the signs into compliance within a 60 day period.

This 60 day "amnesty" period is for the permit fee only. The way that the notice and our process is proceeding is that you receive 30 days to come into compliance and after those 30 days you will be cited. That citation does have a fine. The 60 day period does not apply to the fine - it only applies to the permit fee. The 60 day "amnesty" period begins upon receipt of the notice of noncompliance.

She asked that people calling the "hot line" for information on this subject has been enormous and she asked that they be patient. If an appointment is scheduled with staff, the date that appointment is scheduled will stop the clock on the time requirements.

This resolution amends the Fees and Charges Manual of the City of Asheville to provide for this limited fee waiver.

Ms. Cogburn asked that the 60 day period run from the date of the receipt of the notice concerning nonconformity.

Upon inquiry of Councilman Hay, Ms. Cogburn said that the notices sent out are computer generated, and that the notices are not sent out by zip code.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 97-37. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 34

VI. OTHER BUSINESS:

GROUP DEVELOPMENTS

On May 7, 1991, City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the

next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on March 5, 1997:

Expansion of Ingles located at South Forest Shopping Center

Mr. Bruce Black, Urban Planner, said that this is a proposal to enlarge the Ingles grocery store at South Forest Shopping Center from 37,760 square feet to 62,800 square feet.

The South Forest Shopping Center was built in 1979. The proposed site plan meets all site review requirements except those of parking space provision and parking lot landscaping.

The applicant is showing provisions for 478 parking spaces. The pre-expansion size of the center, approximately 93,880 square feet of retail space, currently requires 470 parking spaces. The current City Code requires 563 spaces in order for the center to be brought into conformance for the total sales area after expansion. The applicant is asking for a variance.

The existing parking lot has no islands for parking lot tree planting. The Asheville City Code requires that with any expansion, the entire project be brought in to compliance, thus requiring for this project that a minimum of 19 trees be planted in islands in the parking lot, and that 19 more be planted around the perimeter of the parking area. The applicant proposes to plant the trees that would otherwise be planted in parking lot islands around the perimeter of the parking lot. The applicant is asking for a variance to this requirement.

The applicant is also required by the City Ordinance to install a buffer along the northern property line of the residential use on the southern boundary of the property. The buffer requirement is either a 20 foot vegetated buffer or a 5 foot visual buffer with a 6 foot visual screen.

The Planning and Zoning Commission has recommended approval of the parking lot variance. They recommended denial of the parking lot landscaping variance as presented, but rather changed the language to "that the parking lot tree variance be changed to a request for landscaping islands."

They have also recommended requiring the buffer (either the 20 feet vegetated buffer or a 5 foot visual buffer with a 6 foot visual screen) at the northern edge of the residential use on the southern boundary of the property, and that the striped areas at the southern entrance be raised concrete medians rather than the stripped areas shown on the plan as recommended by the Traffic Engineer.

Vice-Mayor Field was concerned that if Ingles were to put the landscaping in the parking lot, they would have to delete parking spaces. Therefore, we basically have two opposing regulations - one requiring the landscaping and the other requiring a certain number of parking spaces.

Councilman Worley moved to set a public hearing on March 25, 1997, to consider the following items for the proposed expansion of Ingles located at South Forest Shopping Center at 780 Hendersonville road: (1) the approval of a site plan; (2) and the following variances: (a) reduction in the number of required parking spaces; and (b) variance in

the location and planting requirements for parking lot trees. This motion was seconded by Vice-Mayor Field and carried unanimously.

Addition of New Assisted Living Facility at the Givens Estates

Councilman Skalski moved to excuse Councilman Cloninger from considering this matter due to a conflict of interest because his firm represents Givens Estate. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mr. Mike Matteson, Urban Planner, said that this a consideration of a proposal for construction of a nursing home on the Givens Estate.

The City has received a proposal for the construction of a nursing home on the Givens Estate. The nursing home will have a total of 84 beds and 44,800 square feet. The entire Givens Estate campus consists of 165 acres and is zoned Office Institutional (OI). The project meets all group development requirements. Letters of approval have been received from the Water Resources Department, the Fire Department and MSD.

Staff has received no comments in opposition to this group development.

The Planning and Development Department staff recommends approval of the group development with no conditions.

At their March 5, 1997, meeting, the Planning and Zoning Commission voted unanimously to recommend approval the group development with no conditions.

Council accepted the report of the Planning and Zoning Commission with the above condition, thereby approving the project by taking no action.

University Place to be located on Barnard Avenue

Mr. Mike Matteson, Urban Planner, said that this is a consideration of a proposed project consisting of 24 two- and three-bedroom apartments to be constructed on Barnard Avenue.

This proposal was before Council in November, 1996, at which time Council accepted the Planning & Zoning Commission's recommendation of denial for the group development. They have since revised their plans somewhat and attempted to address the reasons for denial. That's the reason it is back before Council today.

The proposal is for 24 apartments to be housed in two separate buildings on the site. The property total is approximately 2.75 acres and is zoned R-3. The original proposal called for all 24 units to be 4 bedroom units. The revised proposal is an equal mix of 2 and 3 bedroom units. The total number of bedrooms has been reduced from 96 to 60 and correspondingly the amount of parking has been reduced as well.

One of the reasons for the initial denial was that they did not indicate the required recreational areas on the site plan. Those plans have been revised to reflect that recreational area. Additionally traffic has been a major concern throughout this project and the developer has hired a traffic engineering consultant who has done a report regarding the impact of this development on the adjacent roadway system. The report has indicated that there would not be a significant impact on the adjacent roadways. The site plan does meet all of the

zoning and group development requirements, and because of that, staff's recommendation is approval of the group development.

At the Planning & Zoning Commission meeting on March 5, 1997, the Commission voted 4-3 to recommend denial of the group development based on public health, safety and welfare issues. There is significant opposition to this project and many people did voice their concerns at the Commission's public hearing.

Upon inquiry of Vice-Mayor Field, Mr. Matteson said that the traffic engineering consultant reported his findings at the Commission's public hearing.

When Mayor Martin asked on what reasons did the Commission deny the group development, Mr. Matteson said that the Commission's motion simply indicated that they would deny based on health, safety & welfare issues.

City Attorney Oast said that our ordinance does state that when the Planning & Zoning Commission or the City Council denies approval of a group development, they do have to specify the reasons for denial. He has not had an opportunity to review the Planning & Zoning Commission minutes from that meeting in order to address Council's concern.

Councilman Worley moved to set a public hearing on March 25, 1997. This motion was seconded by Councilman Skalski and carried unanimously.

APARTMENTS ON VIRGINIA AVENUE - REQUEST FOR WATER LINE

Mr. Dick Rice, representing the West Asheville Community League, said that they were pleased that the Housing Authority is planning to build single family houses on their property on Virginia Avenue and that the houses would be sold to current residents of the projects. This property will once again be on the tax rolls (it's been off the rolls since 1992) and it will help the purchasers of these homes to gain the pride of ownership.

They do, however, request a new water line be installed down Virginia Avenue that would provide the fire flow needed to protect the new residents as well as the current residents. The current water line is 50-70 years old and he's been told it's 2" (but he thinks it's probably 4"). Two houses have already been lost to fire. The work done on the water lines on Hudson Street may have increased the pressure, but not the fire flow or volume of water. This neighborhood has been somewhat at risk ever since the construction of I-240 cut it off from the main water line on Amboy Road. Merely increasing the pressure on the old water lines may cause more breaks. Currently there are approximately 49 patches on Virginia Avenue where the water line had to be fixed. There may be a few gas line patches.

He understood that Council was informed on the recent bus tour by the Housing Authority that the water situation had been taken care of and that Fire Chief Rukavina had approved the project. Since that time he has talked with Chief Rukavina who said he hadn't heard about the project. He then talked to Mr. Mike Holcombe who said that no other work had been done since Hudson Street and that no other work was planned. Mr. Holcombe said that the work on Hudson Street had increased the pressure but it's volume that is needed, not pressure.

Nothing has changed since the 28 unit project was denied. Virginia Avenue is still narrow with parked cars, there are no

sidewalks, the traffic is still heavy and most importantly, there is not enough water to fight fires.

Brotherton is a dead-end street and when I-240 is widened, Virginia Avenue will also become a dead-end street. That will make it increasingly difficult for fire trucks and other emergency vehicles to service the area.

They are asking for a new water line to be laid down Virginia Avenue before the proposed project is allowed to proceed. They are also asking that the number of new homes be reduced from the 25-30 mentioned to 10-15 even though the zoning would permit more. Also, recently HUD announced that housing authorities could designate projects for senior citizens. We ask that that be done since there will be no place for children to play but in the street.

We hope that common sense and rational thinking will make this improvement to the neighborhood safe and free from a fire tragedy.

Councilman Cloninger appreciated Mr. Rice for bringing this matter to Council's attention and noted that the City will know more when testing is completed.

Councilman Sellers noted that he has received a letter from Mr. Rob Dame, resident at 163 Virginia Avenue, in support of the Housing Authority proposal with some contingencies.

Upon inquiry of Councilman Sellers, Ms. Julia Cogburn, Planning & Development Director, said that this project will have to go through the subdivision process at which time she will voice Council's concerns. She also noted that she would facilitate a meeting with the Housing Authority and the neighborhood on this proposal.

COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop, resident of the City of Asheville, asked the City Attorney for "a copy of a Supreme Court law that said that the Council does not have to keep full and accurate minutes of the Council proceedings as set forth in 160A-72 of the State Law." City Attorney Oast said that he would be happy to furnish Mr. Bishop with a copy if he would come to his office anytime the next day.

CLAIMS

The following claims were received by the City of Asheville during the week of February 21-27, 1997: Essroc Materials (Civic Center), Perrie Merrill (Water) and Donna Angel (Civic Center).

The following claims were received during the week of February 28-March 6, 1997: Ruby Tweed (Water), Ernest Lindsey (Streets), Diane Adams (Streets), Linda Osborne (Water), Sam Interlicchia (Streets), Ethel Buckner (Streets), Mary Huntsinger (Parks & Recreation) and Dyric Brooks (Streets).

These claims have been referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:50 p.m.

Magdalen Bowerson
CITY CLERK

MAYOR

Tuesday - March 18, 1997 - 4:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Budget Amendment re: Major Vehicle Repairs

Summary: Consideration of an amendment to the Fiscal Year 96-97 Fleet Management operating budget to fund major vehicle repairs.

The budget amendment provides an increase in the appropriation for the Fleet Management budget to provide funds for the repair of two Fire Department vehicles. The specific repairs are a blown engine on Engine 6 which happened on December 25, 1996 ($16,780) and body repair and repainting of Squad 3 ($18,521). In large part, the damage to Squad 3 was a result of the "Blizzard of '93"; however, it was not until delivery of the new fire engine in December of 1996 that Squad 3 could be released from service for the period of approximately one month that will be required for the completion of repairs. Sufficient funding is available in the Fire Department budget for both of these repairs; however, an increase in Fleet Management is necessary to allow that internal service fund to "earn" the additional revenue from the general fund.

The Finance Department recommends approval of the budget amendment in the total amount of $35,301 for the repair of these two Fire Department vehicles.

Advertise Sale of Disposal Parcel 4B near corner of Hilliard and South French Broad Avenues

Summary: The consideration of a bid from Carol Annette Tenant in the amount of $7,650 for the purchase of Disposal Parcel 4B in the East Riverside Redevelopment Project is not less than the established minimum price of $7,650.

Disposal Parcel 4B is a residential lot near the corner of Hilliard and South French Broad Avenues comprising of 12,730 square feet. The bid from Carol Annette Tenant for Disposal Parcel 4B includes the proposal to construct a single-family home on the property. The home proposed will consist of 5 rooms comprising of 1,024 square feet plus basement. It will contain 3 bedrooms and 2 baths. The bidder, if successful, will be eligible for the Incentive Housing Program Lot Purchase Subsidy.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in G.S. sec. 160A-269.

Community Development staff recommends adoption of the resolution.

Advertise Sale of Tract 3 in the Head of Montford Redevelopment Plan

Summary: Consideration of a bid from J. C. and Shirley Dozier in the amount of $3,300.01 for the purchase of Tract 3 in the Head of Montford Redevelopment Project is not less than the established minimum price of $3,300.00.

Tract 3 is a residential lot on Short Street comprising 5,532 square feet. The bid from J. C. and Shirley Dozier for Tract 3 includes no plans to build on the lot but, Tract 3 is to be assembled with property currently by the Doziers.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in G.S. sec. 160A-269.

Community Development staff recommends adoption of the resolution.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

EXCHANGE OF LAND - DISPOSAL PARCEL 30 FOR DISPOSAL PARCEL 10.3

Mr. Ed Vess said that an exchange of property has been negotiated with Mr. Charles Martin who purchased a lot from the City to build a house but has been unable to do so because the lot is the site of a stormwater detention basin.

The portion of PIN No. 9648.07-58-1294 is a residential lot owned by the City on Edge Hill Avenue comprising 16,727 square feet. It is located one block from PIN No. 9648.07-68-0603 at the corner of Curve Street and Alexander Drive, the lot previously purchased by Charles Martin on which he planned to build a house. After the purchase was made it was discovered that the lot is not buildable without the expenditure of a considerable amount of money because of the detention basin on the property. The Public Works Department recommends reacquiring PIN No. 9648.07-68-0603 in order to leave the detention basin in place to assist in the control of the storm drainage system. An exchange of property has been negotiated which will satisfy Mr. Martin's need for a buildable lot and the City's need to control storm drainage system in the area of Curve Street and Alexander Drive.

Approval of the resolution will initiate the exchange of the properties through the process provided in G.S. sec. 160A-271.

Community Development staff recommends adoption of the resolution thereby approving the exchange of property with Mr. Martin.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

USE OF METROPOLITAN SEWERAGE DISTRICT'S RIGHT-OF-WAY FOR GREENWAY DEVELOPMENT

Councilman Cloninger reported that he has met with MSD staff last week to discuss the possibility of MSD making some of its rights-of-way available to the City of Asheville for use in the development of the

City's greenway system. He noted that cities all over the country are experiencing the positive results of developing greenway systems. Greenways provide additional recreational opportunities to citizens, enhance the beauty of the area, increase the values of surrounding property and make a community more attractive to industries looking to locate in areas where their management and employees want a high quality of life.

The City is interested in the process of developing a greenway system in order to enjoy these same benefits. As other cities have learned, one of the best avenues for the development of greenways is through the use of existing rights-of-way of various utilities. The City would like to use that same approach and therefore, he has been working out a proposal with MSD whereby the City could use MSD rights-of-way subject to conditions which are satisfactory to the MSD Board. This concept of working with the City has been unanimously approved by the MSD right-of-way committee and will shortly be brought to the full MSD Board for consideration. They would like to schedule working in the Haw Creek area first. He believes that this would be a win/win situation for both the City and MSD. It will not only give the City an opportunity to work with MSD to enhance our greenway system, but it's also a good chance to improve our working relationship with MSD.

Vice-Mayor Field suggested, and Councilman Cloninger agreed, that the PACE Committee and the Walkable Communities staff become involved to help with overall planning.

Councilman Skalski said that financial assistance may be available with Governor's Hunt 2001 Plan since walkways and bikeways are part of the package.

UDO UPDATE

Mr. Gerald Green, Senior Planner, briefed City Council on revisions to the UDO as recommended by the Planning & Zoning Commission. The revisions were a result of the Commission's worksessions in which they reviewed the text.

BOOZER'S RADIATOR SERVICE & AUTO REPAIR PETITION

Mr. Clarence Birmingham presented City Council with a "petition to the Asheville Planning & Zoning Commission" containing 601 signatures which reads as follows: "On behalf of the undersigned concerned citizens Asheville, patrons of Boozer's Radiator and Automotive Services, and residents in the identified residential area of Clingman Ave., I Clarence & Barbara Birmingham respectfully submit this petition to the planning and zoning commission, to any and all affected committees and staff of the UDO process and City Council."

"We the undersigned respectfully petition the City of Asheville Planning and Zoning Commission to grant a change in the zoning classification of the Birmingham family properties located on Clingman Avenue beside the Silver Dollar Cafe from residential to commercial service; by imply extending the boundaries of that classification some 200 yards across the Birmingham's property from the Silver Dollar Cafe. We believe the proposed location is an appropriate location for our planned automobile service activities. We propose no danger to the natural environment, health, business, property values or economic growth, etc. We believe that our presence will be of extremes importance to the many tourist and residents who will frequently visit the river front area when developed. Our presence as any automotive complex will serve as a point of relief for the many stranded motorist

who find themselves on our river front area. It would be a sound zoning change since my property adjoins a commercial zoned property known as the Silver Dollar Cafe.

CLOSED SESSION:

At 4:50 p.m., Councilman Worley moved to go into closed session to establish, or to instruct the City's staff concerning the position to be taken by or on behalf of the City in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease - as authorized by G.S. 143-318.11 (a) (5). This motion was seconded by Vice-Mayor Field and carried unanimously.

At 5:10 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Skalski and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:10 p.m.

SCHOOL BOARD INTERVIEWS

Beginning at 5:00 p.m. in Room 209 of the City Hall Building, City Council held pre-arranged interviews for applicants to the Asheville School Board. The persons interviewed were: Lewis Isaac, Hugh McCollum, Marsha Bate, Mary Downes, Susan Fisher, Joe Ferikes, Pat McClellan, John Legerton and Susan Paterson.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - March 25, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Pastor Buddy Corbin from Calvery Baptist Church gave the invocation.

I. PROCLAMATIONS:

A. PRESENTATION BY THE ASHEVILLE AREA CHAMBER OF COMMERCE

Mr. Ray Bailey, Chair Elect for the Asheville Area Chamber of Commerce, and Ms. Angie Chandler, Vice President of Communications & Public Affairs, presented Mayor and Council members with a new coffee table book entitled *A View from the Top*.

B. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 13-19, 1997, AS "NATIONAL VOLUNTEER WEEK"

Mayor Martin read a proclamation proclaiming the week of April 13-19, 1997, as "National Volunteer Week" in the City of Asheville. He presented the proclamation to Ms. Gail Baylor who briefed the Council on some activities taking place during the week.

II. CONSENT:

Mr. H. K. Edgerton asked that Item A. be removed from the Consent Agenda for discussion.

Mr. Johnny Lloyd asked that Item B. be removed from the Consent Agenda for discussion.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 11, 1997, AND THE WORKSESSION HELD ON MARCH 18, 1997

This item was removed from the Consent Agenda for discussion.

B. RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCELS 6B & 6C LOCATED ON MONTFORD AVENUE TO NEIGHBORHOOD HOUSING SERVICES

This item was removed from the Consent Agenda for discussion.

C. RESOLUTION NO. 97-38 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS FOR DISPOSAL PARCEL 4B (NEAR INTERSECTION OF HILLIARD AND SOUTH FRENCH BROAD AVENUES) IN THE EAST RIVERSIDE REDEVELOPMENT PROJECT

Summary: The consideration of a bid from Carol Annette Tenant in the amount of $7,650.00 for the purchase of Disposal Parcel 4B in the East Riverside Redevelopment Project is not less than the established minimum price of $7,650.00.

Disposal Parcel 4B is a residential lot near the corner of Hilliard and South French Broad Avenues comprising of 12,730 square feet, as shown on the attached map. The bid from Carol Annette Tenant for Disposal Parcel 4B includes the proposal to construct a single-family home on the property. The home proposed will consist of 5 rooms comprising of 1,024 square feet plus basement. It will contain 3 bedrooms and 2 baths. The bidder if successful will be eligible for the Incentive Housing Program Lot Purchase Subsidy.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. G. S. 160A-269.

RESOLUTION BOOK NO. 24 - PAGE 35

D. RESOLUTION NO. 97-39 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS FOR TRACT 3 (ON SHORT STREET) IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

Summary: Consideration of a bid from J. C. and Shirley Dozier in the amount of $3,300.01 for the purchase of Tract 3 in the Head of Montford Redevelopment Project is not less than the established minimum price of $3,300.00.

Tract 3 is a residential lot on Short Street comprising 5,532 square feet. The bid from J. C. and Shirley Dozier for Tract 3 includes no plans to build on the lot but, Tract 3 is to be assembled with property currently by the Doziers.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. G. S. 160A-269.

RESOLUTION BOOK NO. 24 - PAGE 36

E. RESOLUTION NO. 97-40 - RESOLUTION THE CITY CLERK TO ADVERTISE A NOTICE OF INTENT TO AUTHORIZE THE EXCHANGE OF CITY OWNED LAND LOCATED ON EDGE HILL ROAD FOR LAND OWNED BY CHARLES MARTIN LOCATED ON CURVE STREET

Summary: An exchange of property has been negotiated with Mr. Charles Martin who purchased a lot from the City to build a house but has been unable to do so because the lot is the site of a stormwater detention basin.

The portion of PIN No. 9648.07-58-1294 is a residential lot owned by the City on Edge Hill Avenue comprising 16,727 square feet. It is located one block from PIN No. 9648.07-68-0603 at the corner of Curve Street and Alexander Drive, the lot previously purchased by Charles Martin on which he planned to build a house. After the purchase was made it was discovered that the lot is not buildable without the expenditure of a considerable amount of money because of the detention basin on the property. The Public Works Department recommends reacquiring PIN No. 9648.07-68-0603 in order to leave the detention basin in place to assist in the control of the storm drainage system. An exchange of property has been negotiated which will satisfy Mr. Martin's need for a buildable lot and the City's need to control storm drainage system in the area of Curve Street and Alexander Drive.

Approval of the resolution will initiate the exchange of the properties through the process provided in N. C. G. S. 160A-271.

RESOLUTION BOOK NO. 24 - PAGE 37

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Sellers moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCES:

A. ORDINANCE NO. 2348 - BUDGET AMENDMENT TO PROVIDE FUNDS FOR THE REPAIR OF TWO FIRE DEPARTMENT VEHICLES

Summary: This budget amendment, in the amount of $35,301, is for the repair of two Fire Department vehicles.

ORDINANCE BOOK NO. 16 - PAGE 154

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance on the Ordinance Consent Agenda and it will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, the Ordinance Consent Agenda was adopted on its first reading.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 11, 1997, AND THE WORKSESSION HELD ON MARCH 18, 1997

Upon inquiry of Mr. H. K. Edgerton, City Manager Westbrook said that there is $100,000 allocated for the City's 1997 Summer Youth Program.

Councilman Worley moved to approve the minutes of the March 11, 1997, and March 18, 1997, City Council minutes. This motion was seconded by Vice-Mayor Field and carried unanimously.

B. RESOLUTION NO. 97-41 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCELS 6B & 6C LOCATED ON MONTFORD AVENUE TO NEIGHBORHOOD HOUSING SERVICES

Summary: The consideration of adopting a resolution authorizing the sale of Disposal Parcels 6B & 6C to Neighborhood Housing Services of Asheville Inc. (NHS).

A bid has been received from Neighborhood Housing Services of Asheville, Inc., in the amount of $248,900 for the purchase of Disposal Parcels 6B and 6C in the Head of Montford Redevelopment Project.

Disposal Parcels 6B & 6C are CG (Commercial General) zoned parcels located on Montford Avenue about 200 feet North of the

Billy Graham Freeway comprising 1.2 acres. The combined Fair Reuse Value for both parcels is $248,900. The proposed land use for the property in the Head of Montford Redevelopment Plan is for neighborhood commercial.

NHS has submitted a bid to purchase Disposal Parcels 6B and 6C in the amount of $248,900. The proposal includes a plan to build: three two-story mixed use buildings on Montford Avenue for neighborhood retail, office and residential space along with four residential structures on Short Street at an anticipated development cost of $1,540,000.00.

The Montford Neighborhood Advisory Committee has endorsed the NHS proposal.

The upset bid process was followed and no upset bids were received.

Upon inquiry of Mr. Johnny Lloyd, Councilman Hay said that NHS receives Community Development Block Grant money, which is federal money allocated by the City for a specific project.

Mayor Martin stated that the bid from NHS was $248,900 and the only other "offer" was from Meals on Wheels who asked the parcels be conveyed to them at no cost or at a reduced cost.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved to adopt Resolution No. 97-41. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 38

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE RELATIVE TO THE LOCATION AND INSTALLATION STANDARDS OF TELECOMMUNICATIONS TOWERS

Councilman Cloninger moved to continue the public hearing until April 22, 1997. This motion was seconded by Councilman Worley and carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE SITE PLAN FOR UNIVERSITY PLACE TO BE LOCATED ON BARNARD AVENUE

Mayor Martin opened the public hearing at 5:21 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that this is a consideration of a proposed project consisting of 24 two- and three-bedroom apartments to be constructed on Barnard Avenue.

This proposal was before Council in November, 1996, at which time Council accepted the Planning & Zoning Commission's recommendation of

denial for the group development. They have since revised their plans somewhat and attempted to address the reasons for denial. That's the reason it is back before Council today.

The proposal is for 24 apartments to be housed in two separate buildings on Barnard Avenue. The property total is approximately 2.75 acres and is zoned R-3. The original proposal called for all 24 units to be 4 bedroom units. The revised proposal is an equal mix of 2 and 3 bedroom units. The total number of bedrooms has been reduced from 96 to 60 and correspondingly the amount of parking has been reduced as well.

One of the reasons for the initial denial was that they did not indicate the required recreational areas on the site plan. The zoning ordinance requires 4,800 sq. ft. of recreational area for this project. Those plans have been revised to reflect that recreational area. Additionally traffic has been a major concern throughout this project and the developer has hired a traffic engineering consultant who has done a report regarding the impact of this development on the adjacent roadway system. The report has indicated that there would not be a significant impact on the adjacent roadways. Staff has received approval letters for water and sewer availability and for adequate water pressure for fire protection. The site plan does meet all of the zoning and group development requirements, and because of that, staff's recommendation is approval of the group development.

At the Planning & Zoning Commission ("Commission") meeting on March 5, 1997, the Commission voted 4-3 to recommend denial of the group development based on safety concerns. There is significant opposition to this project and many people did voice their concerns at the Commission's public hearing.

When Mayor Martin asked if the City's Traffic Engineer reviewed the independent traffic engineer's report, Mr. Matteson responded that the City's Traffic Engineer did review the study and concurs that there would not be a significant impact on the adjacent roadways.

Councilman Worley asked for clarification on the Commission's reason for denial on the grounds of safety. Mr. Matteson then read the Commission's minutes which motion reads "move for denial based on Section 30-6-1 of the Zoning Ordinance regarding safety concerns."

Upon inquiry of Mayor Martin, City Attorney Oast said that the Zoning Ordinance states that if the Commission recommends denial or if City Council, in fact, denies approval to a group development, the reasons for the denial must be stated. In his opinion, specific instances of nonconformity with the zoning ordinance or the applicable development standards must be identified and given as the reasons for denial of approval.

Vice-Mayor Field then asked if it was legal for this public hearing to be before City Council if the specific reasons for denial were not stated. City Attorney Oast stated that the group development was properly before City Council.

Councilman Hay thought City Council took action in November to postpone any reconsideration of this development for a year. He felt that was a good chance for the parties to work together and find some common ground. He questioned why this is before the Council again within a year.

Mr. Matteson responded that the zoning ordinance does indicate that if a group development is denied, it cannot come back for a year.

However, it does allow that if the plans are significantly revised and address the reasons for denial then the Planning Director can make the determination to send it back through the process. He said that the plans were revised in an attempt to address the concerns and the Planning staff felt that they were changed enough to merit coming back through the process.

When Councilman Hay asked what the significant changes were, Mr. Matteson said that there was a reduction of the number of bedrooms. Originally the proposal called for all 24 units to be 4 bedroom units - that is now revised to be an equal combination of 2 and 3 bedroom units, so the number of bedrooms has been reduced from 96 to 60. And, correspondingly, the number of parking spaces has been reduced. One of the very specific reasons for denial was the fact that the recreational areas required by the ordinance were not indicated on the plan. The plans were revised to show those areas.

Councilman Hay asked who makes the decisions on what constitutes significant changes. City Attorney Oast responded that the Zoning Ordinance does provide that the Planning Director makes that determination. If there is any disagreement with that determination, it can be appealed to the Board of Adjustment. If City Council disagreed with that determination, City Council can appeal that matter to the Board of Adjustment, as well. It was his understanding that the residents in the area may have appealed to the Board of Adjustment.

Councilman Sellers asked what the measurements are for the width of Barnard Avenue. Mr. Matteson said that if it was a new road, the requirement would be 20 feet. However, the average width in that stretch of Barnard Avenue is 18 feet.

Councilman Sellers asked if there were any plans for sidewalks along Barnard Avenue or provisions for curbing since on one side of Barnard there is a ravine with quite a bit of erosion. Public Works Director Mark Combs said that there are currently no sidewalks planned on Barnard. Sidewalks and curbing would depend on what the City's right-of-way is and whether the neighborhood would give right-of-way. There would also need to be input from the PACE Committee.

Councilman Sellers voiced concern for the safety of school children who get off the school at the intersection of Edgewood and Barnard. They have no place to walk on Barnard but the street.

Mayor Martin agreed with Councilman Sellers regarding the dangerous situation due to the lack of sidewalks, especially on the south side of Edgewood going up over the rise from Barnard. He asked the City Manager to investigate installing perhaps a 150 foot sidewalk in that particular area.

Councilman Skalski said that there are a lot of streets in the City that need widening and sidewalks. He asked if our Powell Bill funds are adequate to take care of the needs of our City. City Manager Westbrook explained that a good portion of the Powell Bill funds is used for debt service on existing bonds and they do not fund all of the Street Division.

Councilman Skalski pointed out that there are a lot of areas in the City where we do not have the money to put the proper infrastructure in for more high density development.

In response to an inquiry of Mr. Johnny Lloyd, Mayor Martin stated that the greenway on W. T. Weaver Boulevard is being constructed as it

was a safety concern for the people who walk between UNC-A and Merrimon Avenue. He said that greenway is also a connection to the Broadway greenway as well. Mayor Martin did state that the City does have a sidewalk program.

Upon inquiry of Councilman Sellers, Mr. Matteson said the developer paid for the traffic study.

Councilman Worley asked if the City conducted it's own study or just reviewed the developer's independent traffic study. Mr. Combs responded that Mr. Cheeks, the City' Traffic Engineer who is out of town, did a lot of traffic studies on Edgewood prior to this particular development. Barnard was part of that study. Mr. Cheeks also reviewed the numbers of what the developer's engineer performed and he concurred that the development will not significantly impact Barnard's ability to move traffic.

Councilman Hay asked what the traffic considerations are under the zoning ordinance. Mr. Matteson said that traffic itself is not addressed in the zoning ordinance. However, throughout the group development progress and the technical review of group developments, the City does review these types of projects for impacts on traffic among many other things. It is a combined effort between the Public Works Department, the Planning Department and various other City departments.

City Attorney Oast said that what the zoning ordinance does provide with regard to streets is that adequate safe and convenient vehicular and pedestrian circulation facilities shall be provided with off-street parking and loading spaces no less than the minimum requirements as set forth in Section 30-3-11. He assumed that the site plan was reviewed by our Public Works Department with those requirements in mind and they indicated no objection.

Ms. Gay Sprague, Registered Engineer from Greenville, S.C., who did the independent traffic study, said that in this case the purpose of her study was to look at the adjacent intersection and determine if the layout of the intersection was adequate to serve the traffic that would be generated by this development. She used certain methodologies, measures and criteria, established in the profession, that she would use anywhere, no matter who was paying her. Her study was about the capacity of the intersection, therefore she performed a capacity analysis. She described in detail how she did her study, starting with determining what the base traffic was at the intersection. The main thing she was looking for was which way people turned. Then the trip generation is estimated from the new development. In this case since it is so near the University she did an analysis using the assumption of student occupation and average occupation. She also did a count at a nearby student development to determine exactly how many trips students make per bedroom and then generated the traffic that way. She then added it to the current traffic and did another capacity analysis. She explained that a capacity analysis measures level of services that range from A, the best, to F, a parking lot. This operates now at a level of service A and it would operate at a level of service A with average occupancy and with student occupancy. She did not look at the capacity of the street, only the intersection. The number of cars on Barnard are based on an extrapolation of peak hour numbers. On Barnard currently there are, on the north side, about 320 vehicles per day.

Vice-Mayor Field said that it was her understanding that for an average two lane road, the capacity was something like 8-12,000 cars per day.

Ms. Sprague said that there were questions if you can really use a capacity to describe how a road like this should operate, so she used some numbers which were much lower than that, which she calls appropriate volumes, and those numbers still fall well within of that level.

Upon inquiry of Vice-Mayor Field, Mr. Combs said that he has talked at length with Mr. Cheeks and he does concur with the study.

Vice-Mayor Field asked what capacity does a two lane road have taking into account the topography, in terms of curves and hills. Ms. Sprague said that they would be approximately 7-8,000, depending on the road. She did not do that kind of all day number for this, so she could not be specific, however, those are the kinds of numbers you would be talking about.

When Mayor Martin asked if there was a difference between the north side of that intersection and the traffic on the south side, Ms. Sprague said that there is some difference because of on-street parking. That's why her analysis was at the intersection. She stated that these numbers on an hourly basis are very small numbers. She noted that you really can't do a valid study much past the very intersection, or you start losing an accurate idea of where the traffic is going to go.

Councilman Worley said that the count on the north side of Barnard was around 320 per day and asked, just for comparison sake, what was the count on Edgewood? Ms. Sprague said that she obtained the Edgewood count from some information from City Traffic Engineering and an average number is approximately 2,500.

When Councilman Cloninger asked what dates Ms. Sprague did her study, she responded that her counts of student residences was on a Monday near the end of January and the other one was in February on a Friday when she actually counted the intersection.

Councilman Skalski asked how a study is done with regard to the volume on a five lane main road as opposed to a very small residential street that has a lot of contour to it. Ms. Sprague responded that that is exactly what a capacity analysis is for because it has as input the numbers of lanes, widths of lanes, the ability to pass, etc. in it. That's part of what you get in a capacity analysis. Those are the objective measures that you use. You also have to consider where that road is and where it leads. She did go an extra step in this study and used some numbers that she used in other communities as what is appropriate on this kind of street - not just what's the capacity.

Councilman Skalski wondered if it's really safe to have any kind of increase in traffic on Barnard because of the steepness of the road, the curves, the lack of sidewalks, the variation in grade and the narrowness of the road. He felt that it's really unsafe now with the current traffic level.

When Councilman Skalski asked if Barnard Avenue meets City specifications, Mr. Combs said that when the City takes over existing streets or streets that were built prior to a 20 foot specification, it's difficult for staff to say that it really doesn't meet the City's specifications. He said they deal with those streets as they exist. However, if they had to build Barnard Avenue from scratch, it would be more desirable to make it wider with a wider shoulder.

Vice-Mayor Field noted that the Walkable Communities Conference indicated Asheville needed narrower streets.

Mr. Jim Efland, owner and designer of the project, passed out to Council a document in support of the University Place project. The topics addressed in the document are reduced density, parking, meets all City zoning requirements, minimal traffic impact, provides badly needed housing, unique design provides substantial recreation area, meets 2010 Plan, matches surrounding multi-family property usage and adds significant tax basis. He said the project is way under the zoning allowances and he has spent a lot of extra effort designing the property to preserve as much of the trees and natural area to basically isolate the project from the area. He said the project meets the UDO requirements, basically. He said the project matches surrounding multi-family usage of the property around it, which are predominately multi-family and renters. The latest census he looked at showed over 60% over rental properties in that entire area. He has met several times with the neighborhood association to try to address their concerns. He has looked at their proposal but their proposal would ideally like single-family homes or attached single-family homes, or something similar to that on the property. He has graded the property but he wouldn't have had he known he was going to run into this opposition. He was under the zoning requirements and he didn't think it would be a problem. He previously was working with the University that needed housing but is not working with them now. He has tried to redesign the project to address some of the safety concerns and problems that the neighborhood has expressed. He is concerned that the usage they have in their proposal would virtually destroy every tree left on the property because it placed the housing around the outside perimeter of the property. Most importantly, the proposal would waste one of the few larger tracts in North Asheville that, if reasonably utilized, could help alleviate some of the current housing crunch. By use of a map, he showed Council the area in question.

Mr. Steve Barden, attorney representing Mr. Efland, said that this project meets all the criteria in R-3 for group developments and also was recommended for approval by the Planning staff. He said the number of units is almost one-half of that allowed in R-3 for this 2.75 acre tract of land and they are asking for no variances. The City Traffic Engineer has approved the project and a professional study has shown minimal traffic impact. He noted that at the Commission meeting, Mr. Haner stated safety concerns when he voted against the project. He said Mr. Haner further said that the neighborhood could not design Mr. Efland's project. He then read Mr. Swicegood's motion to approve the project noting that the project meets all the requirements that the Planning & Zoning Commission has to go by, that he has met the required density and density in the UDO when it is adopted, and he has strived to meet all the criteria by which the Commission can recommend approval or denial. Seventeen people spoke at the Commission's hearing against the project. They all talked about traffic, but not a single one presented facts that rebutted the traffic studies done by the City or Ms. Sprague. All those residents bought or rented property in that neighborhood with the full knowledge that it was zoned R-3 which can accommodate this kind of project. He said there was a recent North Carolina Supreme Court case that was handed down in February that involved the recordation of a subdivision plat which Harnett County refused to allow. Although everyone agreed that this particular subdivision did not fall within the restrictive regulations regarding subdivisions in that County, the County could still regulate it on the grounds that it would be a danger to the health, safety and welfare of the community. The North Carolina Supreme Court reversed ruling that a general statement of purpose in any statute regarding protection of the public health, safety and welfare of the community is not a valid legal basis to prohibit an otherwise legal development plan. There was an earlier North Carolina Supreme Court case that said that a municipal corporation by ordinance or resolution

may not arbitrarily or capriciously restrict an owner's right to use his property for a lawful purpose. This project easily meets all criteria in our zoning ordinance. Mr. Efland's use of his property should not be dictated by a majority vote of the neighborhood.

Mr. Tom Byers, Special Assistant to the Chancellor at the University of UNC-A, said that UNC-A has a major interest of housing issues. "We wish to express first on behalf of students, faculty and staff, and second on behalf of all in our community who benefit from having a thriving public university, how important it is that there be a diverse range of private-sector housing options in areas near the campus. ... For many UNC-A students, their primary housing option is to live in a residence hall on the campus. This is what they think of first, and it's what we want them to think of first. Given UNC-A's undergraduate liberal arts focus, we think that living on campus can be an important means for taking full advantage of the university learning environment. . . . No matter how much we plan and work to attract students to the campus, the university will always generate a diverse range of housing demand. ... But allowing for a diverse range of affordable housing options near the campus does not benefit solely the residents who will occupy these units. If multi-family housing is appropriately encouraged to develop, the wider community can benefit in a number of ways. Neighborhoods can benefit by having commuter traffic reduced. The environment will benefit as more people travel by foot, bicycle or public transportation. And the economy and quality of life of our whole City will benefit as its public university is allowed to thrive and grow. For the long-range good of our total community, UNC-A strongly urges the City to continue to allow the development of multi-family housing units in the area surrounding the campus."

Mr. Byers said that it is very difficult for the University to fund even a small capital project without an appropriation specific for the purpose. However, if funding for sidewalks is deemed to be a critical issue in opening the area in question to an expansion of multi-family housing options, and if there could be equitable cost sharing including the City and other parties who would benefit from the improvements, then the University will try very hard to find a way to do its fair share in assisting with the cost of construction of the needed sidewalk.

Councilman Hay was pleased to hear that UNC-A's is taking a more active role for the livability in the community.

Councilman Skalski hoped that UNC-A will join with the City the next time we lobby our state legislature for public transportation money.

Mr. Keith Thompson, 1 Bridle Path Road, refuted Mr. Efland's statement in the paper that most of the people who live around universities are students. He then read a statement from his wife, Nancy Patterson, who also resides at 1 Bridle Path Road. She wrote that 100 feet away from her house Mr. Efland plans to build a dormitory in the guise of apartments. She was concerned that the noise from heavy metal, rap, shouting, and loud vehicles will keep her children from sleeping. She wrote, among other things, that the University Place apartments will rob their community from peace and security.

Mr. Ron Dame, 171 Edgewood Road, noted that Council has worked with the neighborhood to help reduce the traffic on Edgewood Road. He felt there were errors made during the Technical Review Committee review, especially on the traffic and the traffic safety. He felt that the traffic consultant Mr. Efland hired and paid was biased. He noted

that an engineer was hired for a traffic study for the Clemson University area which engineer said there would be no traffic problem. The area, however, is a bottleneck of traffic. He said that he has tried in the past to get information on the traffic studies. He provided Council with a letter he wrote to Mr. James Cheeks dated June 28, 1995, requesting a copy of traffic studies. He said that Mr. Cheeks said that he "would not provide that because it could be used to embarrass the City or the police department" and he wouldn't provide it. He felt that Mr. Cheeks has not properly looked at the traffic and pedestrian problems in the neighborhood. He felt that the community didn't want to deny Mr. Efland a chance to make money, but they don't want him to make money at the unbridled expense of the neighborhood.

Mr. David Gould, Neighborhood Association member, said that individual residents have researched the specifics on sewer, water, safety, traffic, fire, pedestrian safety, emergency vehicle access, and drainage for the project. They found a pattern in the criteria - "does it meet the very minimum standards?" In each case, it may meet the minimum according to whose figures you used - it's clearly arguably. He said that when you sum up the specifics, this is an inadequate project for the area. There is nothing like it in density or size in the neighborhood. He felt that Code secs. 30-5-4 and 30-6-1 attempt to guard against this. He read a portion of Code that states when a requirement like density is met "that these regulations are not to be construed as intended to be detrimental to the residential environment." It doesn't state that if you meet the very minimum requirements you have some inherent right to get a permit. He said that when this was voted down in November the neighborhood thought that they would have a year to negotiate. He didn't feel that Mr. Efland has made substantial changes which would give him the right to bring this back before City Council within the year. He implored Council to rule that the Code is intended to prevent this minimum substandard acceptance if everything comes in substandard. By use of a map, he gave a specific example of the minimum standard regarding water runoff. He said that the project does not fit with the neighborhood. He then challenged the statistics of the rentals in the area noting that there is currently 50 vacant units in the Edgewood Knoll Apartments. He felt that this process, although on the surface looks like it has met the standards, has not met the standards, and certainly not met the standards of Code secs. 30-5-4 and 30-6-1 state. He urged Council to interpret the Code in a way that the neighborhood can look for some quality development and that the review process will expect more than just a minimum.

Vice-Mayor Field was concerned that Mr. Gould was stating that City staff was not doing their job asked for specific instances where that has occurred. Mr. Gould responded that the project does not meet the requirements of the UDO of 8 units per acre but it does meet the standards of R-3 which is 16 units per acre. Mr. Gould said that even though the project does meet the standards in density, the Code says that density alone is not to be construed as a criteria. He said that the TRC Committee review okayed the project before they had the traffic study, the drainage was not going to work, and the water flow pressure just meets the minimum. He said that the staff looked at minimum standards only.

Mr. Matteson said that the Planning Department's purview is not to review drainage. The TRC is the proper body to look at these issues. The Planning staff rely on TRC's expertise in doing their review. Planning staff has received every indication that drainage and every other issue that is looked at by that Committee has been satisfactorily met.

Mayor Martin said that the technical aspects of this project has been reviewed as all projects are reviewed in this City which are applicable. He was confident that the professionals on the TRC Committee were capable of reviewing each project.

Mr. Beth Maczka, resident of 7 Garden Terrace and Director of the Affordable Housing Coalition, spoke to the need for affordable housing. Housing is a critical need and from the City's most recent study reports Asheville needs 708 units per year to meet the existing need for affordable housing in our community. The vacancy rate in this City is 1%. In terms of Edgewood Knoll Apartments, they have raised their rents in the last year as much as 16%. She pointed out that renters who need this housing aren't property owners but they are still citizens of Asheville. She felt that sidewalks and drainage are important concerns that can be addressed and rather than denying projects, she felt we needed to think creatively about how to solve these obstacles.

In response to Councilman Skalski, Ms. Maczka said that people need to be able to rent before they move onto home ownership and multi-family doesn't necessarily mean rental versus home ownership because it could also be turned into a condominium. Home ownership should be a goal, but she didn't feel that should be a reason to deny a multi-family project.

When Councilman Skalski asked if the present infrastructure was adequate if density was increased, Ms. Maczka doubted that transportation was adequate, but if there is something specific like sidewalks then our attention should be put to addressing those legitimate concerns and work on transportation. She noted to support transportation you have to have density.

Mr. Jim Siemens stated that he submitted earlier today to the City Clerk and Council members a brief on behalf of the Jackson/Woolsey Neighborhood Assn. Inc. He said the dynamics this City Council is going to face again and again is an antiquated infrastructure and a need for affordable housing, which results in this University Place Project. The City is trying to shoe-horn this multi-unit complex in an area which is clearly unsafe for the density proposed. He then reviewed the brief and each exhibit attached. He noted that Exhibit 1 (minutes of the Planning & Zoning Commission) in which they unanimously denied the project on November 6, 1996, was incomplete and asked that he be allowed to supplement it the next day. Exhibit 2 is a portion of the City Council minutes in which City Council accepted the Planning & Zoning Commission's report, thus denying the group development. Exhibit 3 is a portion of the Planning & Zoning Commission minutes in which the Commission denied the project on a 4-3 vote. He pointed out that Mr. Haner said that "this project would further destabilize the neighborhood. He understood the need for student housing, however, he was concerned about the vacancies at Edgewood Knoll. He did not feel Mr. Efland had addressed the safety concerns regarding pedestrian traffic, therefore, the was not in favor of the motion." Exhibit 4 is a letter from Chancellor Patsy B. Reed dated August 3, 1995, which reads in part "We share your concern about traffic problems on your street, which is having to serve a volume of traffic larger than it was designed for." He felt that Ms. Sprague should consider this if she is to render an opinion as to the relative safety of the roads. Exhibit 5 is a memo from S. Douglas Spell, Assistant City Manager, which summarizes the result of meetings between City staff and neighborhoods concerning traffic issues. This memo shows that by staff recommending such things as one way roads and three way stop signs they understand that the neighborhood's concerns are credible. Exhibit 6 is a portion of the City Council minutes on June 25, 1996, in which City Council adopted

Resolution No. 96-105 which requested the Public Works Department to install additional traffic control devices and measures along Edgewood Road between Merrimon Avenue and the UNC-A campus. Again clearly Council has recognized that traffic, absent this project, is a significant concern. Exhibit 7 is the traffic assessment summary performed by Ms. Sprague. He felt that this information is incomprehensible and it clearly does not consider Exhibits 4-7. The City's staff and Council has acknowledged that traffic is a very significant problem in the Jackson/Woolsey neighborhood, yet there is no mention of that in Exhibit 7. He feel that the staff has overlooked some significant issues in their technical review. Exhibit 8 is a document from the National Climatic Data Center which provides weather reports on specific days. He said it was his understanding that a pedestrian study was conducted by City staff on March 19-20, 1996. On those dates the report shows pea size hail, snow, snow showers and the next day light snow and snow showers all day. These are the days City staff elected to conduct a pedestrian study. He didn't think that study would provide Council with a representative sample of pedestrian traffic on Edgewood Road. He felt that study should be done again or thrown out entirely. These are the inadequacies of the technical review that Council must consider in making findings to deny this project. Exhibit 9 is a copy of a letter to the editor dated March 3, 1997, from Edward Shuping from Fort Collins, Colorado, who states that he's never seen a neighborhood with a more serious problem posed for pedestrians than Edgewood Road. Exhibit 10 is a portion of the Planning & Zoning Commission minutes in which "Mr. Haner asked what would be done if the fire trucks had difficulties responding to emergencies because of the width of the street. Mr. Cheeks said that on-street parking would be removed." He said that if emergency vehicles have a difficult time navigating on these inadequate roads, there's a chance of someone being hurt or someone's house being burnt down and then the City will remove off-street parking. That's not the way to approve a project - you have to consider all of these contingencies. He hoped that he has provided Council with some information regarding the inadequacy of technical review. He urged City Council to deny the project and give the Neighborhood Association the relief they are entitled to.

Upon inquiry of Councilman Cloninger, City Attorney Oast said that for any documents or photographs to be included as part of the record, they would need to furnish the City Clerk with those copies. City Clerk Burleson said that she has received Mr. Siemen's brief with exhibits.

Mr. Efland explained his stormwater drainage plan. He noted that his buildings would be sprinkled. He said they did reduce the parking because the neighbors had expressed concern about having it. After the complexion and direction of the apartments were changed, that amount of parking was not necessary. They can put that parking back in and still meet the recreational requirements. He noted that he did write a letter last year trying to withdraw this project until after he met with the neighbors and worked out some of their concerns. However, there were some technicalities in the way his letter was worded so it did need to go before City Council.

Mr. Robert Hall, 3 Bridle Path Road which property adjoins the subject property, read a resolution by the Asheville Democratic Precinct #4. Said resolution reads "Be it resolved, that Asheville Democratic Precinct #4, meeting in the North Asheville Community Center this 17th day of March 1997, upon discussion of safety, health and welfare concerns resulting from the proposed construction of a group development on Barnard Avenue in our precinct, recommend to officials and appointees of city and state government that they consider the impact of traffic and density in making their decisions to approve or deny permits for

construction of said project." This motion was made by Keith Thompson, seconded by Ron Moore and unanimously approved.

Mr. C. D. Williams, resident in the Jackson Park/Woolsey neighborhood, said that they tried to find the amount of fire water flow for this project and they got three different readings - one from the Fire Marshall, one from the City of Asheville, and one from the City Engineer. He was concerned that if both buildings were on fire at the same time, there would not be adequate water. He noted that the University plan to have adequate housing within their grounds so what will happen to this multi-family apartment building when the University moves out. The apartments are not family apartments.

Upon inquiry of Mayor Martin, City Attorney Oast said that this particular project is a group development as described in the City's ordinance. In his opinion, Council may only deny approval to group developments if it can find specific instances of noncompliance with the specified development standards. The development standards are specified in Section 30-6-1 (c). Any motion to deny would have to be supported by findings of fact and evidence related to that section and specific instances of noncompliance. That opinion was recently strengthened by the Supreme Court decision in Three Guys Real Estate v. Harnett County, which has been referred to earlier. That particular case said that where you have a specific development standard and that the developer or applicant could demonstrate compliance with it, the governing body or approving authority could not, on the basis of nonspecific concerns related to the public health, safety and welfare, deny it's approval of the project. If there is a motion to deny approval of this project, it would be his recommendation that specific findings be made in conjunction with that motion.

Upon inquiry of Mayor Martin, Planning & Development Director Julia Cogburn said that it is the feeling of the Planning & Development Department that this project meets all of the requirements of the zoning ordinance.

Councilman Hay asked Ms. Cogburn if the project makes adequate provisions for safe pedestrian and vehicular traffic. Ms. Cogburn responded that to the extent that those are required by our zoning ordinance, yes.

Councilman Skalski was concerned with the amount of severe damage caused by stormwater runoff over the past three-five years. Ms. Cogburn said that our stormwater ordinance was adopted approximately two years ago and that was the first time that the City addressed stormwater requirements for new developments. This development would be subject to those requirements. In effect, this project and those since that ordinance was adopted, really are in better stead for handling stormwater issues than those that preceded the adoption of the stormwater ordinance.

Councilman Skalski felt the residents in this area have a legitimate concern regarding stormwater runoff damage because there has been considerable amount of reports of damage to property contents caused by stormwater runoff since the adoption of the stormwater ordinance. He feels this is a threat to the health, safety and welfare of any community that has new development.

Ms. Cogburn said that if there is a problem with our stormwater ordinance, then we need to address those concerns in the stormwater ordinance.

When Councilman Worley asked if this project meets the requirements of the stormwater ordinance, Ms. Cogburn said that Planning staff was not reviewing it at the site plan phase. What Council is considering today is not whether or not it meets the stormwater ordinance, it's whether it meets the zoning ordinance and the group development review. The developer is required, as a matter of course, to meet the stormwater ordinance. If you wanted to make them a condition of approval, Council could do that, but it would be redundant.

Ms. Lisa Gould said it is obvious that although the area is zoned now to support this project, that area is not properly zoned. That's evidenced by the condition of the roads, the size of the roads, the lack of sidewalks, the slope and the fact that most of the housing are single or double family homes. She asked what the community can do to get the area zoned properly.

Mayor Martin said that City Council has to base their decision on how the area is zoned now.

Councilman Worley asked if Council determines that the zoning is inappropriate, could they take that into consideration in passing upon this project? City Attorney Oast said not with passing this particular project. The applicant has submitted his application and he has done everything procedurally that he has to do to bring this matter before Council. In his opinion, it would be inappropriate to deny the project on the basis that it may not be appropriate under the current zoning for that area.

City Attorney Oast said that Section 30-6-2 provides City Council with the following options: City Council may approve the application and group development plan as submitted, approve the application and plan with modifications or conditions, deny approval of the application and plan, table action on the application and plan until more information or a revised plan can be submitted, or remand the application and plan to the Planning & Zoning Commission for further consideration and recommendation. It goes on to provide that in the event approval is denied, the City Council shall state the reasons for denial in its records.

Mr. Siemens asked if they could get agreement at this time under the North Carolina General Statutes that he does not have a vested right to build. City Attorney Oast said that he does not have sufficient information at this time to make that determination.

Mr. Siemens reminded Council that the last time they addressed the traffic issues on Edgewood Road, the Police Department reported five accidents in the last two years. He encouraged Council to consider all alternatives available to them, but urged them to deny the project.

When Councilman Skalski referred to the Planning & Zoning Commission minutes where the word "dormitory" was discussed, Mr. Siemens felt that a dormitory is what Council is dealing with, not a multi-family apartment.

Mayor Martin closed the public hearing at 7:21 p.m.

Councilman Skalski moved to deny the approval of the application and plan. This motion was seconded by Councilman Sellers.

Councilman Hay said that he would vote in favor of the motion because he believes that due to the congested nature of the neighborhood in which the development is proposed, including the narrowness of the

roads and lack of off-street parking on the roads, that adequate provision for safe vehicular and pedestrian traffic has not been met.

Upon inquiry of Vice-Mayor Field, City Attorney Oast said that the police power is the general authority that Council has to act in the public health, safety and welfare. He said that since the zoning ordinance and development standards arise from the Council's general police power, a particular project or development that meets those more particular standards then is presumed by the Courts to satisfy the broader standard of the public health, safety and welfare.

To further clarify Vice-Mayor Field's question, City Attorney Oast said that if Council's concern about the pedestrian problem is something that is addressed specifically in the ordinance, then it may be a basis for denial. However, there is no specific standard that deals with pedestrian accessibility or safety to pedestrians. The issue of pedestrian accessibility and sidewalks is not specifically addressed in the development standards.

Vice-Mayor Field then said that for in order for her to vote to deny the project she would have to come up with some specific standard that had to be addressed in the zoning ordinance or the development standards that are contained in the ordinance. However, staff has said that the project meets the development standards.

Councilman Worley said that he intends to vote against the motion and would support a motion to approve if the motion to deny fails. He does so, knowing he has a number of friends who live in this area. When he was elected to City Council he took an oath to support and defend the Constitution and laws of the United States and the Constitution and laws of North Carolina. He has carefully reviewed a memorandum prepared by the City Attorney that tells City Council what they can and cannot do. He has carefully listened to all of the comments and evidence presented at this hearing in the light of the standards set forth in the memorandum. He has listened to staff explain how they believe the project complies with the ordinance. When he applies the standards that our legal counsel tells us we have to apply, he believes that he has no choice but to go ahead and vote in favor of the project if such a motion is offered. It is a very tough decision.

Councilman Skalski has served on two prior UDO Committees for five years and he didn't understand why there is a big debate over a new zoning ordinance. The reason is that there are loopholes in it all over the place and it's caused a lot of harm, damage and a lot wasted time. He can't understand how we can say that this meets all the requirements under our current ordinance when we've been saying for the last five years there are loopholes in the current ordinance. Based on that alone you can't guarantee protection for even the developer because we don't have adequate regulations. The roads that surround this development are totally under standard. They are not designed to even the minimal standards. They are dangerous. Even though it doesn't fit some national average, it's dangerous now and if we add more we make it more dangerous. On the issue of the current stormwater ordinance, he knows of many instances in the City where businesses and residences have received thousands of dollars worth of damage in the last three years. Our stormwater ordinance is not adequate to protect us in this hilly terrain. No one has presented a comprehensive stormwater runoff plan for this area. There has been no evidence given to this Council that shows where the stormwater runoff will adequately protect this property. He said the City of Asheville does not have adequate funding from our state revenue source to adequately maintain the roads of this City. We

don't have the money to do sidewalks or stormwater work. After reading the Planning & Zoning Commission documents, he couldn't determine what the criteria is for a dormitory. If you are going to have 3-4 students in a bedroom, you can end up with the same number of students in this building as you did on the original design which was modified to get the permit. In that respect, there is no way we can enforce the number of students that go into each one of these apartments. With respect to the overall area, we have an existing traffic problem on Edgewood Road. The traffic from this development is going to have to go somewhere. No where has he seen data presented that will show that this already exacerbated situation with the traffic coming from the University can handle that. No one has come forward with a comprehensive plan to show that it's safe for both vehicular and pedestrian traffic on this road.

Councilman Cloninger said that he intended to vote in favor of the motion. He very much respects the advice and opinion that has been given by the City Attorney and very much respect the opinions of those members of Council who are going to essentially follow that advice and vote against this motion. He disagree with the decision of the Supreme Court in the Harnett County case and agree with what the Court of Appeals ruled. History has shown that some of the best law and the most important law has been made when citizens or governments have been willing to challenge existing case law. He thinks we should be prepared and willing to challenge it when we think it's not appropriate. While he respects the opinions on what the current case law is, he thinks we should vote in favor of this motion and should be prepared to defend it all the way to the Supreme Court, if necessary.

Mayor Martin said the neighborhoods has asked a lot of Council in the past two years. Council has tried in every instance to listen to the neighborhoods and they have tried to listen to the business and commercial interests as well to maintain a balance. Property owners have rights and zoning ordinances are enacted to tell people what they can do in a specific instance with their property. This is part of why we have zoning laws and they can be changed. But to take away someone's right under existing ordinances and laws is not the right way. He feels Council is here to look at the laws. Staff has indicated that all the standards and procedures have been met.

Vice-Mayor Field noted in the Haw Creek decision we went with the recommendations our legal staff because she too believed that she would uphold the statutes and ordinances of the City of Asheville and the State of North Carolina and the laws of the United States of America. She voted in that instance and there were many people who were not happy with her decision. She believe just as Mayor Martin and Councilman Worley said that Mr. Efland meets the requirements of our ordinances and deserves to be able to build the project. She strongly supports affordable housing and those housing units can be used for families, students and anybody that needs housing in this community. We need more affordable housing. She is convinced that this project is not unsafe, will meet the requirements of the building code and will meet the requirements of our ordinances. She is, however, disappointed that people call other people names in order to get their ideas across. She's heard fairly negative things about Mr. Efland, about our staff and about other people. She was very disappointed that by and was sorry that we have to use those kinds of tactics in order to have a dialog about issues.

At this time, Mayor Martin asked for a show of hands in favor of the motion to deny the application and plan. Councilmen Cloninger, Hay, Sellers and Skalski raised their hands. Mayor Martin then asked for a show of hands opposed to the motion to deny the application and plan.

Mayor Martin, Vice-Mayor Field and Councilman Worley raised their hands. The motion to deny the group development carried on a 4-3 vote.

At 7:47 p.m., Mayor Martin announced a 10 minute break.

C. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ADD A NEW OFFICE DISTRICT

ORDINANCE NO. 2349 - ORDINANCE TO AMEND THE ZONING ORDINANCE TO ADD A NEW OFFICE DISTRICT

Mayor Martin opened the public hearing at 7:55 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Erin McLoughlin, Urban Planner, said that this is consideration of adding a zoning district to the Zoning Ordinance for "Office District."

At their March 5, 1997, meeting, the Asheville Planning and Zoning Commission voted unanimously to recommend approval of an amendment to the Asheville Zoning Ordinance which would add an office district to the current ordinance.

The Planning & Zoning Commission felt that a smaller office district would be helpful as an additional zoning tool when office uses were next to residential areas. This office district is established to reserve areas for the development of small scale office uses adjacent to residential uses. The maximum residential density per acre shall be 8 units. The maximum height shall be 40 feet.

The City Attorney has requested a small clarification in the language under paragraph E. 2. "Development Standards" which reads as follows: "New structures in the Office District shall not exceed 8,000 square feet in gross floor area, provided that the gross floor area of any floor shall not exceed 4,000 square feet. Existing structures of less than 8,000 square feet gross floor area may be expanded up to a gross floor area of 8,000 square feet, provided that where any floor of an existing structure exceeds 4,000 square feet, that floor may not be expanded." Only those uses listed as permitted shall be allowed.

Staff has received no comments in opposition to this Group Development.

When Vice-Mayor Field asked why are we considering this change when we are so close to adopting the UDO, Ms. McLoughlin said that there have been a request from the public for a larger office business district which we have already ushered through. At that time members of the Planning & Zoning Commission and Councilman Skalski requested another tool.

Upon inquiry of Councilman Worley, Ms. McLoughlin said that this district is also in the UDO.

The Planning and Zoning Commission recommended unanimously the approval of the ordinance amendment. The Planning and Development Department staff recommends approval of this amendment.

Mayor Martin closed the public hearing at 7:58 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2349, as amended and read by Ms. McLoughlin. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, Ordinance No. 2349 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 156

D. PUBLIC HEARING RELATIVE TO REZONING A PORTION OF 1899 HENDERSONVILLE ROAD FROM R-2 MEDIUM DENSITY RESIDENTIAL TO OB OFFICE BUSINESS

ORDINANCE NO. 2350 - ORDINANCE TO REZONE A PORTION OF 1899 HENDERSONVILLE ROAD FROM R-2 MEDIUM DENSITY RESIDENTIAL TO OB OFFICE BUSINESS

Mayor Martin opened the public hearing at 8:01 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Erin McLoughlin, Urban Planner, said that the petitioner seeks to rezone a portion of 1899 Hendersonville Road, PIN No. 9655-13-14-3658, from R-2 Low Density Residential to OB Office Business.

The request is to rezone the middle portion of the parcel approximately 2.61 acres to office business. There is no conflict with the 2010 Plan which shows this area as a transition area. An office business use would be compatible with existing development in this area. It would serve as a transition between the commercial highway zoning to the east and the R-2 residential zoning to the west. The subject property has been cleared of most of its trees. It is vacant and rolling terrain.

Staff has received no comments in opposition to this rezoning.

At the Planning & Zoning Commission meeting on March 5, 1997, the Commission voted unanimously to recommend approval of the rezoning request. The Planning and Development Department staff recommends approval of the rezoning request.

City Attorney Oast asked that the ordinance be amended to include a metes and bounds description of the portion that is being requested to be rezoned. He passed out the metes and bounds description to all Council members and advised that the description was consistent with the drawing in the agenda package.

Ms. Laurel Eide commended this rezoning request. Mr. Pulliam has helped pull a community together by offering a non-threatening development to the surrounding neighborhoods already in place which are Blake Mountain and Oak Forest. We originally tried to get office district but somehow Mr. Pulliam's building was too large to fit into the capacity of office only so it had to go in the category of office business. Her only regret is that it did not meet the office only criteria. Mr. Pulliam is giving her a portion of his property behind so we can have it as a buffer. He will be deed restricting the property to her and her neighbor. She said that her real estate agent and her

attorney, as well as the Blake Mountain Homeowners Association, has requested that once he deeds the property over to them, that it becomes the same zoning as what she now has so she can sell her home. She asked for an initiation of a zoning study on that particular piece or another alternative to make her property all the same zoning - RS-2.

Mayor Martin directed Ms. Eide that she would need to talk with the Planning staff about her rezoning request.

Ms. Leni Sitnick was pleased that the neighborhood and developer worked together on this issue.

Mayor Martin closed the public hearing at 8:09 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

At the request of Vice-Mayor Field, Councilman Cloninger moved to excuse Vice-Mayor Field from voting because her office is the architect for Mr. Pulliam's project. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Skalski moved for the adoption of Ordinance No. 2350, as amended with the metes and bounds description. This motion was seconded by Councilman Sellers.

On a roll call vote of 6-0, Ordinance No. 2350 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 160

E. PUBLIC HEARING TO CONSIDER THE SITE PLAN FOR THE PROPOSED EXPANSION OF THE INGLES GROCERY STORE AT THE SOUTH FOREST SHOPPING CENTER, LOCATED AT 780 HENDERSONVILLE ROAD; VARIANCE TO REDUCE THE NUMBER OF REQUIRED PARKING SPACES; AND VARIANCE IN THE LOCATION AND PLANTING REQUIREMENTS FOR PARKING LOT TREES

Mayor Martin opened the public hearing at 8:11 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Bruce Black, Urban Planner, said that this is a proposal to enlarge the Ingles grocery store at South Forest Shopping Center from 37,760 square feet to 62,800 square feet.

The South Forest Shopping Center was built in 1979. The proposed site plan meets all site review requirements except those of parking space provision and parking lot landscaping.

The applicant is showing provisions for 478 parking spaces. The pre-expansion size of the center, approximately 93,880 square feet of retail space, currently requires 470 parking spaces. The current City Code requires 563 spaces in order for the center to be brought into conformance for the total sales area after expansion. The applicant is asking for a variance.

The existing parking lot has no islands for parking lot tree planting. The Asheville City Code requires that with any expansion, the

entire project be brought in to compliance, thus requiring for this project that a minimum of 19 trees be planted in islands in the parking lot, and that 19 more be planted around the perimeter of the parking area. The applicant proposes to plant the trees that would otherwise be planted in parking lot islands around the perimeter of the parking lot. The applicant is asking for a variance to this requirement.

The applicant is also required by the City Ordinance to install a buffer along the northern property line of the residential use on the southern boundary of the property. The buffer requirement is either a 20 foot vegetated buffer or a 5 foot visual buffer with a 6 foot visual screen.

The Planning and Zoning Commission has recommended approval of the parking lot variance. They recommended denial of the parking lot landscaping variance as presented, but rather changed the language to "that the parking lot tree variance be changed to a request for landscaping islands."

They have also recommended requiring the buffer (either the 20 feet vegetated buffer or a 5 foot visual buffer with a 6 foot visual screen) at the northern edge of the residential use on the southern boundary of the property, and that the striped areas at the southern entrance be raised concrete medians rather than the stripped areas shown on the plan as recommended by the Traffic Engineer.

Mr. Black corrected a statement he made on March 11, 1997, when he was asked if the ordinance was in conflict with itself because the requirement of providing internal parking lot islands would diminish the number of parking spaces that the applicant had provided. After thinking about that question, he now does not believe that is the case. The parking spaces are 9-1/2 feet wide. The ordinance requires 8-1/2 foot wide parking spaces. By shrinking them 6" they could create enough room of each of these rows to place the landscaped islands without diminishing the number of parking spaces. That does not even include the stripped areas which they have provided at the end of the parking areas.

Mr. Gordon Myers, representing Ingles, said that Ingles has obvious restraints on our land in this area. Two facilities on the property have been torn down and we think that the parking spaces provided now will be ample. Therefore they are asking for a variance on the parking. Regarding the other variance, they have a site plan that shows the raised islands as requested by the City Traffic Engineer and they have also shown 9 landscaped islands in the shopping center area. Their variance request is to put the required number of trees in a different location as a buffer along the property lines separating Ingles from a new commercial facility that is being constructed. They are not asking for a variance on the islands.

Upon inquiry of Councilman Cloninger, Mr. Myers said at instead of putting the trees on the islands, they propose to plant low growing flowering shrubs.

When Councilman Hay asked why Ingles didn't want to put trees in the islands, Mr. Myers said that little trees become big trees and then they have to go in and cut the large grown tree and replace it with a smaller tree. Ingles has had incidents in the past where customers have fallen on the slippery leaves and then file suit against Ingles. It's just a multitude of on-going problems that they have experienced in the past and they find that it's much easier for maintenance if they keep

the trees on the outside areas of the shopping center and maintain the shrubbery in the islands.

Vice-Mayor Field questioned the piece of property that is south of Ingles shown as residential but no house on it. Mr. Myers said that Ingles is in the process of obtaining a contract to purchase that property and that should be completed within the next week.

When Councilman Hay asked why the Code requires trees on the islands, Ms. Julia Cogburn said that basically the reason that the City's required trees on the islands is to provide a canopy for the pavement. Ms. Cogburn said that the Code provision is a very common standard in zoning ordinances throughout the state.

Vice-Mayor Field felt that one of the reasons for putting the islands in the parking lots, whether they are landscaped with low foliage or trees, is that it breaks the parking lot up. She felt there needed to be some greenery in the parking lot.

Ms. Jane Mathews, Planning & Zoning Commission member, said that at the Commission meeting there was a long discussion about how to meet the spirit of the ordinance with the issue, being at the time, signage not visible to the street. She stated that there are alternatives to big trees within our ordinance. Many shopping centers opt for that. We see many plans that come through that opt for dogwoods, redbuds, Bradford Pears - smaller trees that would allow visibility. It was Mr. Torpey's understanding that he was making the motion in light of the discussion of smaller trees that there are options for the owner to have visibility. It was their understanding that it was signage. There was still opportunity there to meet the ordinance with 1-1/2 caliper trees that were a low growing type of tree within our recommended list of plantings. When she voted in favor of the motion, that was her understanding as well. There are options there to plant trees, not to move the trees to the outside perimeter. She felt we should strive to have parking lots with some trees.

Mayor Martin closed the public hearing at 8:26 p.m.

Vice-Mayor Field moved to approve the variance to reduce the number of parking spaces from 563 to 478. This motion was seconded Councilman Skalski and carried unanimously.

Councilman Worley moved to approve the variance in the location of the parking lot trees. Said approval is conditioned that the islands shown on the site plan remain. This motion was seconded by Councilman Sellers.

Councilman Hay said he didn't hear a compelling reason not to enforce our ordinance in this instance so he will vote against the variance in the location of the parking lot trees.

Councilman Cloninger would support the motion to grant the variance to the parking lot trees provided that indeed the islands do appear as proposed on the site plan in the parking lot.

Councilman Skalski saw no reason why small trees could not be planted in the parking lot islands.

Mayor Martin called for a vote on the motion to approve the variance to the parking lot trees. Said motion carried on a 5-2 vote, with Councilmen Hay and Skalski voting "no".

Councilman Skalski moved to approve the group development with the condition that the piece of property on the southeast corner be purchased by Ingles. This motion was seconded by Councilman Worley and carried unanimously.

F. PUBLIC HEARING RELATIVE TO THE DEMOLITION OF 14 MICHIGAN AVENUE

ORDINANCE NO. 2351 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 14 MICHIGAN AVENUE

Mayor Martin opened the public hearing at 8:32 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Natalie Berry, Code Enforcement Officer, said that 14 Michigan Avenue is a dilapidated structure. The owners Fethi A. and Vicki P. Korkmaz have not responded to the Order of the Director Designee of the Building Safety Department to repair or demolish this structure. Inspector Ray Pruitt found the following conditions, which have been documented by still photographs and videotape:

- Structure has been severely damaged by fire;
- The Walls, floors, and roof are structurally unsound;
- The heating, electrical and plumbing systems are damaged beyond repair.

Inspector Ray Pruitt sent a correction order to the property taxpayer of record on January 18, 1995. There was no response. A formal hearing was then scheduled and held on March 22, 1995, and the only respondent was Bill Clark of First Citizens Bank who holds the first mortgage on the property. His comments reflected ours. The cost to repair or replace greatly exceeded 50% of the current value. First Citizens had no plans to repair or replace the structure. Based on the evidence presented at that hearing the Building Safety Department hearing officer issued a "Findings of Fact and Order" to the owners Fethi A. and Vicki P. Korkmaz to repair or demolish 14 Michigan Avenue within 30 days on February 26, 1996. As of this date, no action has been taken by the owner of legal record.

N.C.G.S. 160A-443(5) authorizes the City Council to direct by ordinance the demolition of a dilapidated structure such as 14 Michigan Avenue subsequent to failure of the owners Fethi A. and Vicki P. Korkmaz to demolish or repair as described above, N.C.G.S. 160A-443(6) authorizes placement of a lien on the property to recover the cost of a demolition so ordered by City Council.

The following is an overview of some general information regarding this property:

- Fair market value of structure is $27,600.
- Estimated value to rebuild the structure only is $116,760.
- Land value without the structure is $9,000.
- Estimated cost to demolish the structure is $13,600.

The date for demolition is April 7, 1997.

Mayor Martin closed the public hearing at 8:35 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Sellers moved for the adoption of Ordinance No. 2351. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2351 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 163

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 97-42 - APPOINTING MEMBERS TO THE ASHEVILLE SCHOOL BOARD

The terms of Carol Matthews, Susan Fisher and Hazel Turner, as members on the Asheville School Board, expire on April 1 1997.

Each Council member voiced praise about all candidates for the School Board. After each Council member voiced their nominations, they each spoke in support of their choices.

Councilman Cloninger nominated Susan Fisher, Lewis Isaac and Hugh McCollum.

Councilman Sellers nominated Susan Fisher, John Legerton and Lewis Isaac.

Councilman Worley nominated Susan Fisher, John Legerton and Lewis Isaac.

Vice-Mayor Field nominated Lewis Isaac, John Legerton and Susan Fisher.

Councilman Hay nominated Lewis Isaac, Susan Fisher and John Legerton.

Councilman Skalski nominated Lewis Isaac, John Legerton and Susan Paterson.

Mayor Martin nominated Lewis Isaac, Susan Fisher and Susan Paterson.

Lewis Isaac received 7 nominations, Susan Fisher received 6 nominations, John Legerton received 5 nominations, Susan Paterson received 2 nominations and Hugh McCollum received 1 nomination. Therefore, Councilman Hay moved to reappoint Susan Fisher to serve an additional four year term, term to expire April 1, 2001, and to appoint Lewis Isaac and John Legerton to each serve a four year term respectively, terms to expire April 1, 2001. This motion was seconded by Councilman Cloninger and carried unanimously.

RESOLUTION BOOK NO. 23 - PAGE

VI. OTHER BUSINESS:

A. STENCILING PROGRAM

Mr. Tom Heck, speaking on behalf of the children he works with at the YMCA, asked City Council to approve a storm drain stenciling program.

It was the consensus of Council to have this item at the April 15, 1997, worksession.

B. CLAIMS

The following claims were received by the City of Asheville during the week of Clayton Mobile Homes (Water), Mary Parker (Water) and Coleen Hazelton (Streets).

These claims have been referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 9:03 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Wednesday - March 26, 1997 - 5:00 p.m.

Unified Development Ordinance Public Hearing on Text

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Thomas G. Sellers

Mayor Martin opened the public hearing on the text of the UDO at 5:00 p.m. Mayor Martin said presentations by the public shall be limited to no more than 10 minutes for the main spokesperson for a group and no more than three minutes for other individuals. Additional information may be conveyed to the City Council in written form.

Mayor Martin said that at the conclusion of the meeting, City Council plan to recess their public hearing until the following day (March 27, 1997) at 5:00 p.m. in the Banquet Room of the Asheville Civic Center. Mayor Martin then opened the public hearing at 5:00 p.m.

Councilman Worley, Chairman of the UDO Committee, said that City Council intends to pass the UDO on May 27, 1997. This is the first public hearing before City Council. The public hearing tonight, March 27, 1997, and April 3, 1997, is on the text of the UDO. The Planning & Zoning Commission has reviewed and passed onto Council the text with their recommended changes and the text is now up for consideration by City Council. The purpose of this public hearing is the text. The mapping recommendations have been out in the community for some time. There have been a series of mapping meetings. The maps are not yet before City Council. Those are still before the Planning & Zoning Commission for review.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Lewis, Vice-President of the Coalition of Asheville Neighborhoods, felt that the UDO replaces a set of ordinances which currently pose a lose-lose situation for both City Council and the public in regard to controversial developments with a lose-lose situation for only the public. The UDO would do so by putting development decisions largely in the hands of public employees (the Planning staff). Those folks have been and will be subject to political pressure, and they should not have the responsibility for decisions which should be made by elected officials. While the proposed ordinance will make life easier for City Council, it can make it sheer hell for everyone else, particularly residential property owners.

Mr. Lewis said the UDO is a user-hostile document. The UDO should be comprehensible to the citizens of Asheville who will have to live with its ramifications. An unintelligible document will be opposed by all segments of the community and serves no one well.

Mr. Lewis offered the following comments: (1) The numbering of sections is such that when reading a long section running several pages one loses track of where one is. Print the final document with at least the section and subsection numbers on each page. (2) Where is Appendix B (Checklists for Applications) in 7-5-9 A. 4.a. (3) No reference to "speculative grading" in the document itself though there is a brief definition in the glossary. (4) Change Figure 11-13 if the new zoning categories are, in part, to protect neighborhoods. (5) Footnoting would go far to illuminate the text. (6) Infrastructure assessments should be

made public before a TRC meeting is held. Let people know what the technicians have found. In many cases, that differs from the actual experience of the people working and living in the area under proposed development. (7) Asheville-Buncombe vision has placed education as the community-wide priority, but schools are not included in the community planning process. (8) Schedule hearings on rezonings and changes to the 2010 Plan at least two weeks apart so that interested parties can study the implications of such far-reaching changes.

Mr. Jay Garner, President of the Asheville Area Chamber of Commerce, stated that the Chamber is very interested in the UDO as it will affect the economic development of the Asheville area. He specifically talked about the site plan review process. For Level 3 projects, please allow industrial projects up to 30 acres for Level 2 projects, allow office or institutional structures with a gross floor area of more than 35,000 square feet to be approved through the TRC Committee without having to go before a public hearing. We are requesting that these levels be returned to their original rank before they were lowered by the Planning & Zoning Commission. If these thresholds are not reinstated, we are concerned about what impact this could have on economic development in our area. For a Level 3 review, public hearings in Asheville can devastate a project that can bring jobs to our area just because a few people do not want the project. If an industrial proposal meets all criteria, a public hearing should not be necessary. After conducting research of other major cities in North Carolina, we have found that mostly only require public hearings for new industrial buildings that involve a rezoning. Additionally he has worked in economic development in both Georgia and Alabama and they are the same. Please don't make it erroneous for businesses to develop in the Asheville area.

Mr. Lee Woods, local businessman and member of the Chamber of Commerce's Local Issues Committee, spoke to affordable housing. Affordable housing doesn't have to be single-family homes on a 1/4 acre or more. It could be proper usage of the land that we have around Asheville. We must make more use of what we have here with the land. We are 9th in size in this State and yet rank 2nd in the cost of housing. The Chamber requests that the City ensure that the UDO address this situation in that it ensures that the zoning document provide adequate zoning and regulations that support affordable housing. He urged Council to consider making affordable housing part of its issue.

When Councilman Hay asked if the Chamber of Commerce's position is consistent with the Affordable Housing Coalition's position of doing away with the distinction between single family and multi-family districts, Ms. Angie Chandler, Vice-President of Communications and Public Affairs at the Chamber of Commerce, said that the Chamber's position is more of a general position in requesting that Council does allow for affordable housing in the Asheville area and that it be spread throughout the community.

Mr. Richard Green, speaking on behalf of the Coalition of Asheville Neighborhoods and member on the Executive Board, put most of their concerns in a publication called "The Community Voice" available at the door to the Banquet Room. The expressed concern that the UDO does propose to eliminate approximately 95% of the public hearings that are presently required. These will be eliminated as a result of the higher thresholds that are put on projects. A 1,000 unit apartment complex could be built adjacent to your neighborhood with no public hearing as long as the developer breaks his project up into contiguous pieces and has those projects approved in a piece-meal fashion.

Councilman Worley said that the UDO would permit your example of a 1,000 unit apartment building to be built in a piece-meal fashion. That is not supported by the current ordinance nor the UDO. Mr. Green responded that he would provide Council with written documentation from the Planning Department indicating that the Planning Department's policy is that they will approve projects in a piece-meal fashion which will allow the developer to circumvent the public hearing process.

Ms. Susan Andrew, Kenilworth resident, felt that part of the problem that the UDO has had in gaining acceptance by the public is that the public has been fairly well shut out in certain ways. There are some ways the UDO is hostile towards public involvement as shown by the proposal to raise the threshold at which a proposed development triggers a public hearing from 8 units to 150 units. That robs the public from input.

Councilman Worley stated that the process to date has been as publicly involved as Council can possibly have it. Every committee meeting has been open, public input has been received at every committee meeting, and Council has tried to be available for community meetings and for any group. He felt the Council has gone out of their way to encourage public input.

Ms. Hazel Fobes said that success of the UDO hinges on the contents being so applicable that they can be enforced. She gave examples of how key words are essential in the UDO. The rules must include specifically what is permitted and what is not permitted. Plans brought to the Planning & Zoning Commission should be the complete plan of a project, not a piece-meal plan.

Mr. Steve Gruber asked for clarification of the planned unit development and conditional use processes. Mr. Gerald Green, Senior Planner, said that the processes are very similar. In the planned unit development, the neighborhood meeting is a recommended, not required, meeting. In that instance the neighborhood could have some input but it would not have a bearing on the approval of the project. The next step is review by the TRC Committee which is made up of staff from various City departments. That Committee would evaluate whether the proposed project meets the standards and requirements of the City with regard to such details as setback, landscaping, access, fire protection, water, sewer availability, etc. They would have to clear that hurdle in order to have a viable project to take on to the Planning & Zoning Commission. The Planning & Zoning Commission would review the proposed project and in the instance of a planned unit development, they would review the master plan, approve that and recommend approval of the zoning overlay which would allow the planned unit development. That would go on to City Council which has the final approval. That is pretty much the same process for the conditional use. The staff level review, again, is just to assure that the project meets the standards and regulations of this City as set forth in the City's ordinances and regulations. The Planning & Zoning Commission would recommend either approval, denial or approval with conditions, and again the City Council would have final approval authority.

When Mr. Gruber asked if the neighborhood mounted enough protest could they kill a project before anybody saw a final plan, Mr. Green responded that the TRC bases their decisions and recommendations on the project's ability to meet the standards and requirements as set forth by the City. The neighborhood opposition or the neighborhood being in favor of the project would have no bearing on the TRC's recommendation. The project would proceed on with the approval process and City Council would review it regardless of the type of input from the neighborhood.

The community would have an opportunity to speak and present their information before City Council and City Council would then make their decision.

Councilman Worley noted that the ordinance does set forth the standards for the review that City Council would have to follow in reviewing a conditional use project. Those are found in Sec. 7-5-5 F. 4.

Ms. Leah Karpen asked for the definition of overlay district. Mr. Green said that an overlay district is an overlay over an existing zoning district which provides either a tightening of the standards, additional standards or in some cases a loosening of the underlying standards.

Ms. Karpen then asked what the procedure is to amend the UDO. Councilman Worley said that City Council intends to periodically review the UDO. They intend to have a review a year after adoption, at a minimum, so see if there are things that haven't worked. The procedure for amending is like any ordinance. City Council can initiate an amendment, it would go to the Planning & Zoning Commission for a review and public hearing. It would then come to City Council for a public hearing and whatever action City Council chose to take.

Ms. Karpen asked why is Council rezoning property at this point under the existing zoning ordinance when the UDO is in process. Councilman Worley said that until the UDO is passed, the City has an existing zoning ordinance that provides for people to come in and apply for a rezoning. That right can't be taken away while we're going forward with the UDO. We have to live with the existing ordinance until we have a new one in its place. We do, however, try to look at rezonings in the context of what the UDO may be recommending.

Ms. Leni Sitnick said that the UDO is cumbersome and difficult for most people to understand and while Council has made great attempts to educate the public, that is the hostility we feel with this document. With Community Oriented Government, the thresholds should be rethought. If you are a property owner or renter in this City and there's going to be a project going on in your backyard, you have the right to have an opportunity to ask questions and express concerns about it. She thinks that the UDO should be stringent, clear, be applied even-handedly, be fair to all and variances should be the exception and should never set precedence. She appreciated the review mechanism but wondered if it would be practical to review on an annual basis any controversial issues that come from the application of the UDO. She appreciated the prior Council's appointment of a member of the Tree Commission to the TRC Committee. She would also like this Council to consider the possibility of appointing a member of the Water Efficiency Task Force to the TRC Committee so that developers can be made aware of all of the water saving opportunities and options that so many businesses and industries in this City have actually benefited from financially. There might need to be a mechanism in the UDO that shows if a particular area looks like it can't take any more via infrastructure or impact on neighborhood, maybe there should be a tool that City Council can use so you stay out of harms way of liabilities and lawsuits. She felt the developers should have the option of using computer technology to visual a property. There should be clear guidelines in the UDO about toxic spewing plants. UDO should make it easy to do good development. We should do everything to eliminate the us and them mentality in this community and the UDO should provide City Council with the tools to use your discretionary authority regarding health, safety and welfare. It's not about your powers, it's about your responsibility.

Ms. Beth Maczka, Director of Affordable Housing Coalition, said that her specific concern was Sec. 7-1-2 - the purpose. She thinks our purpose is missing an opportunity to promote a vision of what we do want in Asheville. She was concerned about several phrases that, to her, implicitly are used to reduce density - to prevent overcrowding of the land, to avoid undue concentration of population, and to encourage the most appropriate use of the land throughout the City's jurisdiction. Density is not a bad thing. If we don't allow concentration of housing and business in our City area, we will promote urban sprawl and we will have a circle of poverty around the City of Asheville where low income people have to go live in the County in order to work in Asheville. She used the example of the Town of Davidson in their purpose - a healthy town is one that provides housing and transportation chooses for its citizens, it protects its unique natural features and physical qualities, and provides places to live, work, shop, and take one's leisure, all connected by a pattern of safe and inviting public spaces. Their purpose was drawn both through both an upfront discussion about density where it's not a negative thing, where it doesn't promote urban sprawl and where it will actually promote more green space within the City by encouraging a concentration in smaller land area. There are examples out there that we can learn from. If the use of the UDO is used to lower the density of our City we will never go back and miss the opportunity to be a sustainable, walkable community. She then spoke about the standards for review and one of those is by looking at the lowering of property values myth. She presented Council with a document of recently sold single-family homes that are in proximity to multi-family apartment buildings. The selections are typical of city-wide increases in property value, reflecting that location near multi-family housing does not diminish property value or the ability to successfully re-sell a home at a profit. She felt that most people are concerned about design and if we have design criteria that people can agree on, there will be a vision that people can work towards. This policy will impact poor people incredibly. It should be a challenge to the community to make sure that we have a wide range of housing options that lead to thriving safe neighborhoods and individual and family self sufficiency. Please consider that and re-write the purpose.

Mr. Albert Sneed felt that this ordinance would create a number of serious nonconformities, not only of nonconformity of use but nonconforming lots, and nonconforming setbacks. He asked Council to review that to see if there isn't some room to create some amelioration. There should be some way to make minor changes to add for instance a loading dock or a lunch room to a factory that will not be properly zoned; (2) Consider allowing nonconforming uses if you have another use that's not the same but it's not anymore impact to all the use of the property to be changed without a more serious impact; (3) There are too many buffers. Commercial uses don't need to have so many buffers between differing type of commercial uses; (4) If there is an error to be made, make it on the side of leniency because it will be difficult to undue the damage later; (5) There are no penalties in the UDO in the event that some staff member takes a willful or an erroneous application of the ordinance and applies it to a property owner and causes damage; (6) The setbacks in Sec. 7-10-4 c. principally setback from major arteries are measured from the edge of the right-of-way and he felt wide rights-of-way are not necessary; and (7) Consider the provision that says that the ordinance shall be strictly construed against the land owner and in favor of the City. That's in the flood section. He was sure that the common law is that this ordinance should be liberally construed in favor of the property owner and strictly against the City.

Ms. Karen Vernon-Young, resident in Beaverdam Community, felt that this has not been the most user-friendly process. She reminded Council

that as Council completes this task that they will at all times consider the impact of their decisions and their actions not just on the Asheville of today, but on the quality of our life in Asheville for future generations. She urged Council to act to preserve our neighborhoods while providing for commercial development in very appropriate and plentiful locations.

A representative from the Interfaith Alliance for Justice, Economic Justice Task Force, spoke about their concern on the negative impact in the UDO on affordable housing, which is in many cases multi-family housing. It was their understanding that single-family housing is going to cover a lot more area in Asheville with multi-family being cut anywhere from 75% to 40%.

Ms. Laurel Eide felt that from the lack of turnout at this meeting, the community is not aware of the UDO. She agreed that there has been some limited advertising but Council promised there would be advertising throughout the community.

Councilman Worley said that there has been a tremendous amount of advertising. It has included a cable TV program on the UDO that ran at least three times a week in January, numerous newspaper articles, and Council members have made several talks on the UDO to various groups. They do wish that there would be a greater participation and greater interest in the process. They wish there was a way to excite more of the citizens of Asheville in this process.

Councilman Cloninger also said that there have been a lot of other opportunities for the public to give their input about the UDO. We had community meetings in different parts of the community that were well attended in which the public had an opportunity to review the maps of the proposed zoning districts and give Council and staff their thoughts. Council has also received a lot of letters and telephone calls. Also, as Councilman Worley noted, several Council members have spoke to many civic groups and had question and answer sessions where hopefully informed people were informed about the nuts and bolts of the UDO. So while he was disappointed by the lack of turnout today, he felt that word getting out in other ways helped answer people's questions.

Upon inquiry of Ms. Hazel Fobes about the $48,000 budgeted for advertising, Mr. Green said that a great deal of the $48,000 that will be expended is yet to be seen. There will be two page ads run in the paper for 4 separate times over the next few weeks primarily detailing the mapping that will go along with the UDO. The cost for those advertisements in the paper is approximately $25,000. That's where the bulk of the money has gone. The cable TV shows, the public notices in the paper, the advertisements by the different media, including radio, costs, but the bulk of the money is for the ads in the newspaper starting tomorrow. He noted that the legal requirements are for publication in the newspaper of general circulation and the Asheville Citizens Times meets that requirement. That is why we selected that newspaper for the two page ads.

Vice-Mayor Field said that she was at the last public hearing the Planning & Zoning Commission held and it was very well intended. She wrote over 40 comments down from people who represented organizations and themselves. She also said that people bring their concerns to Council's attention at different meetings, luncheons, or breakfasts. This is just another venue for Council to hear the public. She thinks that the momentum will build up once the maps are out in the paper.

Mayor Martin agreed that the UDO is hard to understand, however, it is prepared by our professional staff so that the zoning in place can be backed up. The document has to be comprehensive and meet legal requirements. He understands the complexity and the frustration, but he also understands a compilation of our ordinances must be adopted. The document will be reviewed one year from adoption and he has recommended the document be comprehensively reviewed every five years.

Ms. Susan Andrew felt that after the public hearings and comments are made, the public doesn't know what happened to their comments. She suggested comments be distilled, summarized and their effects on the document demonstrated. She felt it would be helpful to know directly what impacts Council's listening has on the ordinance itself.

Councilman Worley said that a draft was compiled in November, 1996. The process has the draft going to the Planning & Zoning Commission first for review and recommendations. The Planning & Zoning Commission has reviewed the document and have now made their recommendations to City Council. It is now City Council's opportunity to make changes they want.

Councilman Cloninger said that there have been some changes in both the text and mapping for the proposals as to the text and the mapping from comments received by the UDO Committee and the public last year. Also, at the different location mapping meetings, staff did take notes. He then asked Mr. Green to expand on what staff did with the notes they took at the community meetings. Mr. Green said that after each meeting the staff met, reviewed the comments made at the public meetings regarding the mapping and then recommended changes. The maps were changed from that first draft. He made available copies of the changes recommended by the Planning & Zoning Commission as a result of their review and also attached to that document are the comments staff received at the mapping meetings and staff's recommendations with regard to changes to be made resulting from those comments.

Mr. Freddie Mitchell, Asheville resident, asked that Clingman Avenue be zoned commercially. He felt that Clingman Avenue should not be zoned residential with the amount of volume of traffic on that road.

Councilman Worley suggested Mr. Mitchell attend the mapping public hearings which will be held on April 23 and 24, 1997, beginning at 5:00 p.m. in the Banquet Room of the Civic Center.

Councilman Skalski praised Mr. Mitchell for expressing how neighborhoods can be planned. He hoped Council and the public can come up with some tools that can be included in the UDO to allow people to have some mechanism where they can design and plan in their areas of town to make really good zoning and planning decisions.

An audience member asked where she can obtain a copy of the ordinance and look at the maps. Councilman Worley said that the ordinance itself is available in the Planning & Development Department on the Fifth Floor in the City Hall Building for $5.00. The maps are also available in the Planning & Development Department and the Planning staff will be happy to go over the proposed maps with you.

Mr. Bill Becker, President of Ballentree Homeowners Association, said that he didn't see anything in the UDO that would prevent the problems occurring at the Pinnacles. Mr. Green said that in light of the Pinnacles, the staff has recommended some additions to the UDO. One is that properties within 1500 feet of each other owned by the same entity and/or developed by the same entity within a period of 3 years or

less shall be treated as a single development. There's a provision in the subdivision section also which staff recommends a revision there to assure that properties are not continually subdivided in order to circumvent the regulations. There is also another revision recommended with regard to grading that on sites with an average natural slope of greater than 15% not more than 5 acres can be graded at any one time and that 5 acre parcel must be brought into final compliance with the erosion control ordinance before grading can occur on another parcel that meets those standards with regard to the average natural grade.

Mr. Scott Dedman, 209 Cumberland Avenue, he hoped that Council would take his comments as serious comments about public policy and not as an attack on the process, the UDO as a document or on the staff. The UDO should be seen in a larger context of development in Asheville. The City Council has done much to promote attractive affordable neighborhoods and homes with generous funding from the available federal funds where there is still much to do in this regard. Council and staff give much of their time and attention to this effort. The UDO effort, as the document is currently drafted, will bring about many improvements in the development process. It compiles many ordinances, reduces bureaucratic procedure and some lot size and setback requirements and is particularly helpful where single-family, low density development is concerned. However, he believed that this ordinance will have other consequences as well which have the potential to undue much of the good work that has already been done. Specifically he was concerned about the dramatic reduction in land area which will be available for the development of multi-family housing and the increased segregation of our neighborhoods by income which he believed will result from the mapping. For weeks now he has "gone among you searching for the public policy basis which provides the foundation or support for the dramatic rezoning of land from single-family to multi-family and the dramatic reduction in allowed density in many, if not most, of our neighborhoods." The purpose of the UDO reads in part "'in order to promote the health, safety, morals or general welfare of the community, to lessen congestion in the streets, to prevent the over-crowding of land, to avoid undue concentration of population, to encourage the most appropriate use of land throughout the City's jurisdiction.' This is a very good purpose, however, it is fairly generic language. ... It is not sufficient for a City as beautiful and special as Asheville. Furthermore, I believe that when we do something as dramatic and radical for our neighborhoods in our planning as we appear to be about to do in the UDO, we should support it and defend it with a grand and noble purpose. When we are about to cut roughly in half the land area available for one-third of our population to live on, our renter population, and when we are about to reduce the allowed density in that area in much of the land remaining, we should not only have a grand purpose but a clearly articulated one. In searching beyond the document itself, my first questions were to the City staff. I asked, why does it benefit Asheville and Asheville's residents to segregate so strictly and to such a great degree the single family dwellers from the multi-family dwellers. Protecting existing neighborhoods from other types of uses was the answer that I got. When I asked other types of uses, it was said protecting single-family neighborhoods from multi-family development. When I asked from what are we protecting these single-family neighborhoods, I was told by the staff member, 'Scott, it's just so basic I can't describe it to you.' So when we add language to the purpose, we should use the word 'protecting' and the word 'basic'. When I asked myself what we would be protecting the single-family residences from, I realize that to protect neighborhoods actually means to protect some of our citizens from others. Obviously the buildings do not need protection from each other. ... What is it about some of our residents

which is so objectionable that we need to protect other residents from it. The next answer from a public policy making was 'so that I won't get hung.' ... It does have an unpleasant connotation to it. It recalls a day when we were less civilized as a nation and a community when an angry vocal majority felt it was it in their interest to protect public schools from integration, to protect public lunch counters and buses from integration. Not only this public official but others have essentially said to me the public wants it and it will be done. I've heard used in recent weeks the phrase residential cleansing. While I did not invent the phrase, I think it is useful to provoke and promote thought and analysis, if nothing else. Such a phrase could make some of us angry because it adds an element to the discussion. It attributes a racial motive if not to the decision makers at least to the pressure which is behind the decisions. This may be unfair. However, you and I know privately some of us have acknowledged at least with a subtle nod of a head that racial bias may at least be in some part whether large or small in the pressure. We know that there has been some agreement privately, not in the decision making but in the pressure, that has lead to some of the decision making. If you can read a neighborhood flyer which spreads the fear of public housing without hearing a racial implication then you're mind is more pure and innocent than mine. I have praised personally for communicating with neighborhood residents with door to door visits before developing affordable housing for working families in a residential neighborhood. However, you were never told, as I tell you now publicly, that right behind me on these door to door visits was a young man from a nearby neighborhood telling residents that there would be black drug dealers living in our affordable housing and asking the neighbors to come out to the public hearing and oppose it. This is not a recent story, this story is from about 3 years ago, but it is a true story. It so happened that the neighbors were much bigger than this and in the large part the neighbors supported the development. I ask you if your neighbor comes to you, if my neighbor comes to me, with segregation on his mind, whether it be economic segregation or racial segregation, and I move in his direction with my policy, is not my policy tainted by those motives, whether they are my motives or not. In other words, in the absence of a clearly articulated opinion, must we not ask, what has motivated the pressure. In this search for the public policy basis for the dramatic increase in segregation of our multi-family dwellers from our single-family dwellers, the closest to a thoughtful answer I have received is the perception of reduced property values. It is not answered reduced property values, it is answered the perception of reduced property values. We could add this to our language in the purpose, to ameliorate the neighborhood perception of reduced property values, however, this is pretty weak soup. I believe that we need to beef it up a little. But since the arguments run both ways, some saying that multi-family properties reduce property values and some say that their multi-family properties which are down-zoned to single-family reduces their property values, I don't know that we have the facts to support this new language. In recent days and weeks, as I have raised such concerns with individual policy makers some of you have expressed disappointment that such basic objections are raised at this late date. However, I do not believe it is too late to proceed in a better way. I believe that what neighborhood residents want most are neighborhoods that are attractive, safe, and well designed. Four units on one acre of land can be beautiful single-family, beautiful multi-family or they can be an ugly disaster either single-family or multi-family. This is not a question of who lives there and whether the homes touch each other or they are divided, it is a question of density and design. I am asking you again to first begin to articulate a clear public purpose which provides a framework for the increased segregation of single-family from multi-family dwellers." Then meet with the community to create a plan which

speaks in a new and creative way to design in density. He asked that we turn this development ordinance into a truly unified development ordinance.

Mayor Martin said that he didn't want anyone to think that anyone on this Council or on staff has said anything about neighborhood cleansing. We have not brought this term up. He said that there has never been any racial aspect regarding the UDO. He said that Council cannot be responsible for what the public does. They can follow Council or anyone around. People have a right to their comments. We have, as a Council, met with Mr. Dedman and members of the Affordable Housing Coalition and we take those meetings seriously. He was not sure what we can incorporate into the UDO at this time but Council is listening. This Council has a noble purpose and this Council has no inclination, intent or design to do anything in a racial bias. We will listen carefully to public reaction and do what they can to make it as good a document as we possibly can.

Mr. Dedman said that he did not allege that Council has supported racial motives or has stated racial motives to what they are doing. He did not suggest that anyone on Council has used the phrase "neighborhood cleansing." He said that he would provide his comments in writing to Council.

Upon inquiry of an audience member, Councilman Worley said that Council is intent on passing the UDO, it's something that has been going on for far too long and it needs to have closure brought to it. Council is intent on listening to comments, reviewing those and making changes as we move towards passage. They are committed to passage of the UDO, but not committed to any specific language at this point in time.

Ms. Sheila Ingersoll, member of the Interfaith Alliance, said that the people with no or little income are the people who don't get heard. Her perception is that the available land now for those people has been considerably reduced.

Mr. C.D. Williams asked if there is any upgrading in the UDO for the infrastructure over what is required in the 2010 Plan before a project can be built. Mr. Green said that as part of the review process the infrastructure will be considered, a water allocation must be provided, a sewer allocation, and there must be adequate water pressure available to provide fire protection to the proposed use. The major additional requirement is for a traffic impact analysis for all level 2 and level 3 projects and for any level 1 project for which the City Traffic Engineer feels that a traffic problem may be created. The requirements for assuring that infrastructure is available is set forth more clearly in the UDO and there are some additional requirements for assuring that that infrastructure is available to meet the needs of the proposed project.

Councilman Skalski stressed that infrastructure in terms of a planning process needs to be addressed. He said that in most cities about 40-60% of the planning that goes on in an area revolves transportation. We are in the process of a comprehensive transportation plan for the City.

Mr. Brian Peterson, speaking on part of behalf of the Coalition of Asheville Neighborhoods UDO Committee, said that basically his recommendations are to allowing greater public input. He passed out a document regarding changes in Article 7, Development Review Procedures, in which they would like to see greater public input and to allow public input at an earlier stage. They feel that the public doesn't find out

about a project until it's been through the Planning Department for months and a developer already has something firm. They would like to see public notification and public input earlier in the process so that if a developer is willing to work with the public, they can hear what the public's concerns are and better explain their plans.

In Sec. 7-3-5 C. add the following sentence: "Members of the public shall have an opportunity to ask reasonable questions and make brief comments."

In Sec. 7-5-4 E. delete letter E and substitute in lieu the following for E: "Notice of an application for a permit for a use by right, subject to special requirement, shall be mailed to the contact person(s) for the neighborhood(s) is (are) known to the Planning and Development Department. This notice shall be mailed at least ten (10) days before the date on which the request is to be considered by the Planning and Development Director."

Upon inquiry of Vice-Mayor Field, Mr. Peterson explained the amendment he suggested in Sec. 7-5-4 E would be mainly something that is built new like duplexes, quadraplexes, adult care homes, or nursing homes. Projects subject to special requirements, like that it be a certain distance from things. Someone in the neighborhood might have information about what's in that neighborhood that might be helpful to staff in knowing whether the special requirements would be met. That way staff would not be depending upon the word of the person who is looking to add something new.

In Secs. 7-5-5 B 2, 7-5-6 B 2, and 7-5-7 B 2 add the following three paragraphs: "If developer does not meet with the representatives of the neighborhood, the staff with the Planning and Development Department shall meet with representatives of the neighborhood in which the proposed conditional use will be located. Staff should explain the proposed development. This meeting shall be held prior to the Technical Review Committee Meeting.

"Notice of any neighborhood meeting, either with the developer or staff shall be mailed to the owners of abutting property and any other property located within four hundred (400) feet of the property proposed for development at least ten (10) days before the Technical Review Committee meeting.

"Notice of any neighborhood meeting, either with the developer or staff shall be mailed to the contact person(s) for the neighborhood(s) in which the project will be located if the contact person(s) is (are) known to the Planning and Development Department. This notice shall be mailed at least ten (10) days before the Technical Review Committee meeting."

Mr. Green said that the hearings before City Council and the Planning and Zoning Commission, there is a legal requirement that the notices be provided within a certain window of time, not to exceed so many days and not less than so many days. We do have notice requirements there that are mandated by law. He did believe in all cases for all projects we also have a statement that notices be sent out prior to the TRC meeting but he would check on that.

In Secs. 7-5-5 E, 7-5-6 E, 7-5-7 E, and 7-5-9 B 5 be amended to read "This notice shall be mailed to the owners of abutting property ... at least twenty (20) days before the date on which the request is to be considered."

"This notice shall also be mailed to the contact person(s) for the neighborhood(s) ... at least twenty (20) days before the date on which the request is to be presented."

Sec. 7-5-5 F 4 include "That the proposed use or development will not cause substantial overcrowding of effected public schools;"

"That the proposed use or development will not substantially disrupt the City's unique scenic nature, nor substantially injure the natural and historic resources and the environmental quality of the City."

Vice-Mayor Field said that there was case law that did not allow you to consider the overcrowding of a school in terms of approval or disapproval of a group development issue. City Attorney Oast said that it is against the law to discriminate against families with children in the provision of housing. He said that was in the Fair Housing Amendments Act of 1988.

In Secs. 7-5-6 F and 7-5-7 F add "4. Standards for Review. The Asheville Planning and Zoning Commission and the Asheville City Council shall not approve the Preliminary Master Plan or the PUD District Designation unless each body makes the following findings, based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case: (Add the criteria set out in Sec. 7-5-5.F.4 and the following criteria)

"That the proposed use or development will not substantial overcrowding of effected public schools;"

"That the proposed use or development will not substantially disrupt the City's unique scenic nature, nor substantially injure the natural and historic resources and the environmental quality of the City."

In Sec. 7-5-9 A be changed to read "Level II Site Plan Review Process. 1. Purpose. The Level II site plan review process ... a. New construction, renovations, and changes of use. (1) Industrial building(s) or structure(s) with a gross floor area of more than 100,000 square feet or an industrial development containing more than fifteen (15) acres; (2) Commercial buildings, structures, or developments with a gross floor area of more than 50,000 square feet; (3) Office or Institutional building(s) with a gross floor area of more than 50,000 square feet; or (4) Any manufactured housing rental community, camper/trailer park, or residential development containing more than eight (8) individual units. b. Additions with a gross floor area of fifty percent (50%) or more of the above threshold for new construction for that land use. In the case of manufactured housing parks, camper/trailer parks, or residential development; additions of five (5) or more units on one parcel of land."

In Sec. 7-5-9 A, delete 2 and insert the following two paragraphs in lieu thereof "All developments subject to the Level II site plan review process shall require a Conditional User Permit and shall comply with the provisions for Condition Use approval set forth in Sec. 7-5-5.

"All developments subject to the Level II site plan review process shall following the procedures for Conditional Use approval set forth in Sec. 7-5-5 in regards to Pre-Application Procedures, Plan Submittal, Staff Review, Public Notification, Formal Review, Project Phasing, Variances, Appeals, Permit Validity, and Violation."

Sec. 7-5-9 B Level II Site Plan Review Process be deleted in its entirety and relabeled "B Level I Site Plan Review Process"

In closing he said that the Coalition of Asheville Neighborhoods feels strongly that the public needs to be involved early in the process. The current UDO appears to be anti-democratic in that it doesn't let Council vote on issues and it leaves a lot more to staff and it doesn't allow public opportunity for input. A lot of the meetings are set out a public meetings, not public hearings, so that there is no dialog there. There needs to be more dialog. Neighborhoods would like to see that any development we do have fits in with the character of the neighborhood.

Mr. Jim McCulley, member of the Asheville Transit Authority and member of the Asheville-Buncombe Community Relations Council, wanted to make sure that the UDO addresses the idea of a transportation pod-type facility along the transit route wherever a bus stop is located along our major thoroughfares of Asheville. That pod should contain a small shopping area with shops on the bottom level and perhaps multi-family housing on the upper levels, or something of that nature. He was also concerned about an avenue for residents to address their concerns regarding projects proposed for their area.

Mr. Green said that under the current ordinance, any decision of the staff can be appealed. That appeal continues under the UDO. Currently a Level I project is appealed to the Board of Adjustment. The Planning & Zoning Commission has recommended that appeals of staff decisions on Level I projects go to the Planning & Zoning Commission. That would be a change as to who hears to the appeal, but both in the existing ordinance and the proposed ordinance has an appeals procedure for any type of staff decision.

Upon inquiry of Mr. McCulley, Mr. Green said that family care homes are permitted in all residential zoning districts in the proposed UDO, which is a more liberal treatment of them than the current zoning ordinance.

Mr. McCulley wondered if our ordinance had any provisions in it to encourage people to build closer to the streets to encourage neighbors to get to know each other. Mr. Green said that the setbacks in all zoning districts, except in RS-2 have been reduced. The minimum setback is now 15 feet as opposed to 35 feet in most of the residential districts under the current zoning ordinance.

Upon inquiry of Ms. Sitnick of the UDO production on the cable TV station, Mr. Green said that we only had to pay for the production of the show which was less than $1,000. The cable station contributed the time for the actual airing of that program. Councilman Worley stated that they tried to do their best to minimize the production cost - it was shot on one take.

Ms. Sitnick asked if there is something in the UDO that protects residents from having things arbitrarily and/or capriciously changed in the UDO. Councilman Worley stated that nothing prevents those changes because the UDO is like any of our other ordinances. Any City Council can change an ordinance.

Ms. Sitnick suggested Council look for some creative funding for infrastructure needs of the City. One is a special tax district where you tax a neighborhood and the money goes right back into that neighborhood. As the UDO proceeds, she urged Council to think about impact or participation fees. She said the vision process brought up a

good point and that had to do with making sure we had a community that provided a living wage to all of its citizens. The affordable housing issue is much broader than just providing housing that people can afford. When the UDO gets passed, it might be a good time for Council to begin looking at the big picture about that economic gap that seems to be widening in Asheville and other places. The more advantage we can give to those less fortunate amongst us, the stronger we will be as a community.

Ms. Beth Maczka said that PUD overlays is a good opportunity to introduce affordable housing and appreciates staff's attention to that and the bonuses given for affordable housing. She was afraid, however, they will never be used if it's kept to be a rezoning requirement. She hoped Council would reconsider and make this a staff review and not make it political.

At 7:37 p.m., Mayor Martin recessed the meeting until March 27, 1996, at 5:00 p.m. in the Banquet Room of the Civic Center Commission.

Magdalen Burleson
CITY CLERK

MAYOR

Thursday - March 27, 1997 - 5:00 p.m.

Continuation of Unified Development Ordinance Public Hearing on Text from March 26, 1997

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson

Absent: Councilman Thomas G. Sellers; City Manager James L. Westbrook Jr.

Mayor Martin reconvened the public hearing on the text of the UDO at 5:00 p.m. He said presentations by the public shall be limited to no more than 10 minutes for the main spokesperson for a group and no more than three minutes for other individuals. Additional information may be conveyed to the City Council in written form.

Ms. Glenda Burgin, 599 Old Toll Road, addressed the section dealing with the resort district - Sec. 7-8-12. The neighbors in the area are concerned about the zoning in the area being changed from residential to resort but will address that at the public hearing on the mapping. She said that in Sec. 7-8-12 F 13 in the "Transition Area", it reads in part "Within one hundred (100) feet of a residentially zoned area, restrictions shall be placed on the (it did say type), height and location of uses other than those permitted in the adjacent residential zone." She was concerned that the word "type" was deleted. She noted that in resort areas you can have bars, restaurants and all kinds of things that are not very appropriate to a residential area. There is already have a traffic problem in that area and if the zoning will be changed, they will have much more of a traffic problem. Those who have property adjoining the land of the Grove Park Inn realize that 100 feet is not very far. He felt that her property values will diminish drastically.

Mr. Dennis King, 616 Old Toll Road, shared Ms. Burgin's concern about the deletion of the word "type" in that transitional area in Sec. 7-8-12 F 13. He asked if in that transition area will the residents be offered any kind of protection for our property. He felt the word "type" should be reinserted.

Mr. Gerald Green, Senior Planner, explained that the Planning & Zoning Commission, during their review of the UDO, was made aware of the concerns of some of the residents around the Grove Park Inn with regard to the listing of uses in the resort district and also some of the mapping. The mapping has been adjusted from those map which were shown at the community meeting based on concerns expressed by some of the residents. The listing of uses within the resort district has also been amended to state that many of those uses, restaurants, bars, nightclubs, book stores, health and fitness centers, etc. must be an accessory use to the principle use. The reason the word "type" was deleted in the transition area is that we list the uses that are not permitted within the transition area. Those include restaurants, bars and nightclubs, stables, facilities for mechanical equipment, and maintenance facilities. That is a revised text and he would be happy to make available that revised text for anyone interested.

Upon inquiry of Ms. Burgin, Mr. Green said that the piece of property across Macon Avenue is owned by the Grove Park Inn and they requested that all their property be zoned resort.

Mr. Joe Adams, President of the Grove Park Sunset Homeowners Association, expressed concerns regarding the rezoning of what is now single-family to single-family with duplexes which, to our way is thinking, is not single-family at all. Speaking personally, he supported the editorial in today's paper with regard to setting up specific meetings to address individual issues of the UDO so that members of the public can understand what is being actually decided. He hoped that the City will be able to allow for multi-family housing as well as maintaining the single-family residential areas that now exist.

Mayor Martin said that there is only 7% of the property available in the City to build so Council has to be careful to zone each area to be sure that we do have affordable housing while trying to do the utmost to be fair.

Mr. Mike Lewis stated that conditional use is not defined in the glossary. In Sec. 7-8-2 E needed to be clarified instead of just saying "Level III projects (residential)." He suggested 7-11-2 D 9 Figure 11-13 be changed because if, under the UDO, the drawing is inappropriate, then why is it in the text.

Ms. Alison Berkey, representative of the Beaverdam Community Council and the people of Beaverdam Valley in North Asheville, said that the Beaverdam Community Council, which was formed in 1979, to assure the continued residential nature of Beaverdam Valley has met to discuss the zoning changes as they affect Beaverdam. They have heard from both City and County residents in their area and their opinion seems to be of one voice still, which is to keep Beaverdam Valley residential. This was also the unanimous vote our of Council meeting on March 20, 1997, and from the feedback they've been getting from the community, there is no perceived need among the current Beaverdam Valley residents for opening the door to commercial development of any kind. We have easy quick access to grocery and other shopping just a couple of miles down the road and any commercial development on Beaverdam Road would only serve to add congestion to the area. It would also change the long history of quiet, residential and rural activity in our part of town. They urged the City planners to delete any change to Beaverdam zoning which would allow commercial development in Beaverdam. She presented Council with a copy of a letter dated March 25, 1997, to the Honorable Russ Martin.

Councilman Cloninger said that this will be an issue Council will be taking up during the mapping stage. He encouraged Ms. Berkey to come to the mapping public hearings on April 23 and 24, 1997, beginning at 5:00 p.m. in the Civic Center Banquet Room.

Mr. Ed Stoll, City employee who handles single-family plan review in the Building Safety Department, voiced concern that some of the definitions in the UDO conflict with definitions in the State Building Code.

Mr. Green said that some of the comments addressed by Mr. Stoll were received from the Chief Building Inspector and the Fire Chief and are revisions are being made. He did ask Mr. Stoll to furnish his comments in writing just to be sure that all his concerns are addressed and changes are made prior to final adoption. Mr. Green stated that since the UDO draft was completed in 1995 and has been available for comments since then from City departments. The Building Safety Department and the Fire Department have submitted comments and those revisions have been made.

Ms. Anne Campbell, Crowfields Drive resident, said it has been difficult for her to get through the UDO. She didn't see speculative

grading being address in general in the UDO. She was concerned with staff approval of smaller site plans because you can have just as many problems impinging on the neighbors coming from a smaller development as you can from a big one. She could find noting in the UDO (except for light specifications) regarding light impinging on established neighborhoods.

Ms. Bea Polak, Kimberly Avenue resident, encouraged Council to delay adoption on the UDO text. She was surprised to hear that all areas designated residential will allow family care homes. Also in the RS-4 neighborhoods, child day care, adult day care and bed and breakfasts will be allowed. Most of the people she has spoken with who live in the RS-4 areas have not been aware of this change. They understood that their status would not change at all under the new UDO specifications. The residents need more time to understand the document from their personal points of interest.

Mr. Green said that bed and breakfasts are not permitted in RS-4, however, they are allowed in multi-family districts. Family care homes are permitted basically because federal regulations state that we can't restrict them, and that is the same as under our existing zoning ordinance. Day care is the only change.

Ms. Beth Maczka, Director of the Affordable Housing Coalition, said that the Coalition formally recommends that Council eliminate the distinction between single versus multi-family housing. There should not be a distinction and further segregation of people by class or income by designating single versus multi-family. We do appreciate the provisions to have accessory apartments, duplexes and quadraplexes. She addressed the myth of single-family neighborhoods. If you look at the maps, it is the rare exception that neighborhoods are purely single-family. Most of the neighborhoods developed in the 1920's were developed as mixed-use neighborhoods. She also addressed the myth that single-family means home ownership and multi-family means rental. In fact a lot of single-family homes can be rental and multi-family homes can be condos. Not everybody can afford a single-family house and she felt we needed to think creatively about using multi-family dwellings for home ownership and have strategies to promote that. She felt that Asheville could have the highest rate of home ownership in the state if they incorporate multi-family (duplexes, triplexes, quadraplexes and accessory apartments) into all residential areas.

Upon inquiry of Ms. Maczka, Vice-Mayor Field said that an analysis of vacant land is in the 2010 Plan which was printed in 1987, which showed that 7% of the land in Asheville was buildable.

Ms. Maczka felt that Asheville needs to have an analysis of what the vacant land is being mapped. She mentioned an analysis which shows that there has been a dramatic decrease of density of near downtown neighborhoods since 1970. She felt we could do a lot of creative in-fill housing and we have the land to use that. She presented Council with an analysis prepared by the Affordable Housing Coalition of rental increases in 24 area apartment complexes during 1995-1997 which showed that the average apartments gross percentage change was an average of 13.9% over two years. She mentioned that Edgewood Knoll went up between 19.5-27.4% in the last two years. This is a critical crush on our rentals and when you have that kind of vacancy rates, rents skyrocket. She challenged anyone to prove that property values have declined with the presence of multi-family housing or public housing. She questioned why is it necessary to dictate between Sec. 7-9-4 which is owner occupant manufactured housing and Sec. 7-9-5 which is rental community

manufactured housing. Her understanding is that zoning should not dictate between the type of ownership.

City Attorney Oast said that he would be glad to look at Ms. Maczka's concern about the legality of dictating the zoning between rental and home ownership and report back to City Council.

Ms. Maczka suggested that staff prepare a one page key point list of items Council would like comments on.

Ms. Connie Duncan, President of Redwood Forest Homeowners Association, felt that the problem between rental vs. home ownership could possibly be enforcement of the building codes. She has a problem unit in their housing development and asked who she should contact in the City to make sure basic improvements are made. It's not just in the trailer parks that something can fall through the system. She felt the problem was enforcement and perhaps the City needs more inspectors. With regard to the single-family districts, she was in favor of the different classifications as listed. She asked if duplexes, triplexes and quadraplexes as permitted uses will be added in a neighborhood, whether they simply reflect what is already built, or do they represent a push to change the neighborhood. She guessed that these structures already exist. If that is the case, then we have another district type - mixed use. She felt that we should be honest in labeling so that the person who moves to Asheville knows exactly where they should look for the type housing they're interested in.

Councilman Worley said that Ms. Duncan should contact the Building Safety Department for an inspection of the unit she spoke about.

Ms. Karen Cragnolin, Director of RiverLink and recovering UDO addict, said that she was surprised when people saying that they haven't had a chance to comment on the UDO because it has been going on for over eight years. What RiverLink visions on the river is a bright future. We see that as the next frontier for sustainable economic development and some wonderful things are happening there as a result of partnerships. We do see the riverfront as being mixed use and that is what is being proposed in the UDO. She briefed Council on the wonderful things happening on the riverfront. She felt it was time to begin to think of planning in our community as something that is ongoing. People should think of the UDO as a living document and as a platform to continue discussing critical issues in the community. She felt this ordinance needed to be adopted and then continue the community dialog.

Mr. Benson Slosman said that he has worked on the UDO since it was first formed. He felt that mixed use is really mixed use. Mixed use the way it is interpreted now is really restrictive use. In order for the river to ever become a reality, it has to be a partnership between the land owners, the environmentalists and the public in general and that was why it was created as mixed use. It specified the things that are prohibited and everything else was allowed. When the asphalt plant came along, the philosophy changed. He has no problem with the river UDO except for that one change. As long as that one change is in there, the property owners will not support the UDO. You will not be able to create a harmonized riverfront without the cooperation of everyone. He urged Council to bring it back to the way the UDO was originally formed.

Mr. Jim Barrett said that he is a resident in Montford, member of the Fair Housing Commission, community member of the Affordable Housing Coalition and an attorney with 10 years or more experience in housing law. He believed that the UDO is needed to combine City ordinances pertaining to development and streamline the process. These comments

are not personal but are made with whatever expertise he has in order to improve the document and subsequent rezoning for the benefit of all of Asheville's citizens and ensure that it complies with state and federal laws. To the extent that changes have not been made to the UDO to increase affordable housing, he believed they have not been adopted because of our social conditioning, rather than sound policy. Of course there is time for Council to improve it - that's why we hold these hearings.

Mr. Barrett said the Fair Housing Plan was adopted by City Council in May of 1996. The purpose of the Fair Housing Plan is to help the City and County to further fair housing opportunities. That is to increase housing opportunities for classes of citizens which are protected by law and policy. Federal law prohibits not only intentional housing discrimination against people due to their race, sex, familial status, etc., but also against actions that have a "disproportionate impact" on protected classes. The federal law also prohibits actions that tend to perpetuate patterns of housing segregation.

Mr. Barrett said that you are probably aware that African Americans are disproportionately poor in our City. Lower income people are much more likely to rent their homes. We know that a disproportionately high number of African Americans rent their homes. People who are disabled and low income families with children may be disproportionately poor and have to rent also. City policies which limit or restrict affordable housing opportunities for the poor are likely to disproportionately affect those protected class members. Such policies can violate fair housing laws and policy. More importantly, such policies inhibit lower income people's efforts to become self-sufficient and to provide for their families. Such policies could tend to confine African Americans to existing neighborhoods where they live now, thus perpetuating historic patters of housing segregation in violation of the law.

He said that he knows this Council is attempting to do what is best for all of Asheville citizens, not just to the most vocal among us. However, Council members and Planning staff seem to have experienced extreme political pressure from certain segments of the community. Past and present Council members have bowed to similar political pressure to such a degree that it has become extremely difficult to develop multi-family or any affordable housing in the City.

This trend which has continued for several years has serious social and legal implications. Catering to the public's fears has set up a cycle of protectionism and prejudice against tenants. First, one section of town seeks "protection" by zoning, and then another. No wonder the UDO seeks to de-politicize some multi-family development issues. It is too bad that this must be done. It would be better if everyone could have all the comments about how the development could occur. He urged City Council to set the threshold as high as possible to keep the politics out of as many of these decisions as possible.

The effects of your decisions are far-reaching. The effects of disproportionate impact discrimination, even though it's not intentional, can be more harmful to protected classes than isolated instances of intentional discrimination. Even the denial of development of new multi-family housing for middle-class people and upper-middle class people tightens the rental market for lower income people. For example, students at UNC-A take rental housing that was once available to African Americans in Montford. Rents for many renters are increasing much faster than inflation because of the tight rental market. These

are dollars that are going a lot of times to out of town landlords and their dollars that our people cannot spend in the community.

The UDO residential zoning classifications seem to perpetuate and exacerbate class and race prejudices. Homeowners in areas with proposed multi-family classification are envious of homeowners in proposed single family classification areas. The current classifications also fall short of the 2010 Plan goals and objectives for promoting more dense housing to allow for more green space. Certainly the UDO falls short of the 2010 Plan goals and objectives regarding promoting affordable housing for all of Asheville's citizens. And it falls short of the objectives Council adopted in the Fair Housing Plan.

Unfortunately the true impact of the UDO on affordable housing and discriminatory impact on protected classes in Asheville is not very evident until the mapping is analyzed. You have to see the use of the property on the ground and the vacant land that is adjacent to it. The failure to zone and set aside vacant property for multi-family housing in most areas of the City was striking when I examined the maps. Failure to plan for present and future needs for affordable housing is really astounding in this market. The City has received a recent report showing that hundreds of affordable units are needed to be added to the housing stock for the next several years in order to meet the need. Without new construction of rental housing, middle-class tenants are crowding out lower income tenants in the City.

Mr. Barrett said that it is his professional opinion that many of the proposed UDO provisions and mapping decisions will have an adverse discriminatory impact on African Americans and other protected class members. Certainly they will have an adverse impact on the poor and other citizens as housing costs escalate. The law of supply and demand is at work in the housing market too. For example, wouldn't it be reasonable to add a realistic inclusionary zoning mechanism to the UDO. When will be have a better opportunity to involve private developers in the development of affordable housing?

He said that Council may not be aware of fair housing laws prohibiting discriminatory impact and perpetuating segregation. He just wanted to raise these red flags for Council before the ordinance is passed. He said that he would submit his proposals for specific language changes next week.

Mr. Bruce Moss, property owner on Leicester Highway, said that his property is currently zoned Commercial Service. Under the UDO, the zoning will revert back to residential. He has borrowed money against the property being appraised for it's commercial worth and if it's rezoned residential, his property will probably devaluate in a 30-35% range.

Councilman Worley suggested Mr. Moss attend the mapping public hearings which will be held on April 23 and 24, 1997, beginning at 5:00 p.m. in the Banquet Room of the Civic Center.

Mr. David Gould said that the read the UDO and what he didn't see in it was a procedure for rezoning or for where a neighborhood could request a rezoning for whatever reason, including lack of infrastructure. His neighborhood has a petition which contains several hundred names to seek to have the R-3 zoning changed, but during this transitional period, he's not sure how to proceed with this petition.

Councilman Worley said the procedure for rezoning is the same under the UDO as it is under our existing ordinances. Any property

owner can initiate a rezoning on his or her own property. The Planning Director, the Planning & Zoning Commission or City Council can initiate a rezoning. The term "initiate" means that you have an absolute right to go to a hearing before Planning & Zoning and have a vote before the Planning & Zoning Commission and then take that to City Council for final action. In addition to that, a group of property owners within an area can file a petition to request City Council to initiate a zoning study of that area. It takes 51% of the property owners owning 51% of the property and the issue of whether or not the zoning study would be undertaken is still discretionary on the part of City Council. As a practical matter with City Council in the transition period, the best thing is to approach the mapping process of the UDO with your request.

Mr. Brian Peterson, West Asheville homeowners, spoke on behalf of affordable housing. The homeowners and residents have legitimate concerns that need to be considered, such as property values, traffic, and aesthetics. He does feel that those concerns can be balanced with the need to provide affordable housing. He did not support dividing up the residential districts by single-family and multi-family. He feels that it's fine to have some mix. If Council can find ways to address the above mentioned concerns, then he felt the neighborhoods would be supportive of allowing more multi-family. He had a general disagreement with the view that the 2010 Plan is taken - the areas closer to the City should be multi-family and areas further out should be single-family. He felt that staff has done a good job in the efforts with the planned unit developments to provide the density bonus incentives to developers that offer some affordable housing. However, he did not think that the 10% density bonus is not enough incentive. He felt that the requirements that the duplexes, quadraplexes and triplexes have to be located a minimum of 500 feet from other multi-family uses and that they have to have that double, triple and quadruple lot size is not reasonable. It appears to say in one part of the text that duplexes and quadraplexes will be allowed and then in other parts of the text it makes it impossible to build those units. If Council is being genuine about allowing duplexes and quadraplexes in residential areas, then those requirements need to be changed.

Upon inquiry of Ms. Duncan, Mr. Green said the limitations on the number of persons in an adult day care and the child day care homes were based on the state standard regulations of day care homes and day care centers. Regarding family care homes, the limitations were based on definitions from other ordinances across the state and federal regulations on existing ordinances here in the City. Those standards are set for those type facilities - we do not use a sliding scale regardless of the size of the facility.

When Ms. Duncan asked about ease in finding particular topics in the UDO once adopted, Councilman Worley stated that once the UDO is adopted, it will become a part of the Code of Ordinances which will have a good index system.

Ms. Burgin said that she was very much in favor of more multi-family. She said that in the Grove Park area, they have apartments, duplexes and single-family and they get along fine. She reiterated that her point was resort coming into that kind of neighborhood, encroaching and bringing more things that are not good neighborhoods - no matter whether you're multi-family or single-family.

Mayor Martin said since Councilman Sellers will not be at the April 3, 1997, meeting which was scheduled for final adoption of the UDO text. Therefore, it was the consensus of Council to proceed with the public hearing on April 3, but postpone adoption of the UDO text until

Thursday, April 10, 1997. A place for the meeting of April 10 will be discussed at the April 3 meeting.

At 6:50 p.m., Mayor Martin recessed the meeting until April 3, 1996, at 5:00 p.m. in the Banquet Room of the Civic Center Commission.

Magdalen Bonbeson
CITY CLERK

MAYOR

Tuesday - April 1, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Thomas G. Sellers

CONSENT:

GRANT APPLICATION FOR HOPKINS CHAPEL STRUCTURAL STABILIZATION

Summary: The Historic Resources Commission ("HRC") requests approval of a $3,000 grant application to the Community Foundation for permanent structural stabilization of Hopkins Chapel.

The HRC and the Preservation Society of Asheville and Buncombe County are working with the members of Hopkins Chapel AME Zion Church to restore the church. A few months ago Hopkins Chapel was in serious jeopardy of collapse. HRC applied for and received a grant from the National Trust for Historic Preservation to develop and implement an emergency stabilization plan for Hopkins Chapel. A mild winter and temporary shoring saved the church from eminent collapse.

A structural analysis of the building is now complete. The Church, the Preservation Society of Asheville & Buncombe County, and HRC have raised $80,000 for this project. However, the total costs for the structural work and material restoration is over $400,000. Fund raising activities are ongoing.

Only a few structures of historic significance to the African-American community remain. Changes in the social, political, and economic areas resulted in the destruction of some area landmarks. If this continues to happen, future generations may suffer from a lack of identity that comes from not seeing tangible evidence of one's roots. Hopkins Chapel's rich history and central position in the African-American community is essential to understanding and keeping alive the heritage of African-Americans.

Staff recommends approval of the grant application to the Community Foundation for permanent structural stabilization of Hopkins Chapel.

BUDGET AMENDMENT FOR PHASE V OF ASHEVILLE URBAN TRAIL

Summary: The Urban Trail Committee is seeking approval for the on-going budget for Phase V effective immediately. The budget reflects the projected expenses and revenues for Phase V. The Urban Trail is funded by private donations and organizations.

During the Phase V of the Urban Trail, from October 1996 - September 1997, the Committee plans to install a bronze plaque, several pink granite markers, various art objects and bricks along the Trail.

Extensive volunteer support has been and will be available from the Urban Trail Committee. The City Development staff will coordinate the project with assistance from other departments such as The Public Works Department and Parks and Recreation Department.

The Urban Trail Committee and the City Development staff recommend approval of this Budget Amendment.

BUDGET AMENDMENT FOR AUDIO-VISUAL DESIGN SERVICES FOR COUNCIL CHAMBER

Summary: The Parks and Recreation Department is seeking authorization from City Council to authorize a budget amendment from the Capital Contingency Fund for $20,000 for audio-visual design services to renovate the Council Chamber in City Hall.

On February 25, 1997, City Council passed Resolution No. 97-19 authorizing the City Manager to enter into a contract with Electronic Interiors Inc. for professional services to design and upgrade the audio-visual and other electronic capabilities of the Council Chamber in the City Building.

The contract will cover the following three areas:

1. Develop methods and procedures for inspection of existing components while preserving the historic fabric of the structure. Prior to construction, develop plans and written bid specifications for necessary improvements to the Council Chamber, incorporating improvements that will include data terminals, a public address system, video cameras, cable television, overhead projection screens, security monitoring devices, and improved exit routes.

2. The City Hall building is a designated local historic landmark. The design firm should be sensitive to this in responding to the needs and wishes of the City Council and the direction of the City Manager or his designated representative.

3. Make site inspections, consult with Historic Resources Commission, and obtain a Certificate of Appropriateness for the proposed improvements.

In order to proceed with the project, an appropriation is needed to fund the professional services. The attached budget amendment will facilitate the necessary funding being established.

Staff recommends that the City Council authorize a budget amendment from the Capital Contingency Fund for $20,000 so that the City may enter into a contract with Electronic Interiors Inc. for design services to renovate the Council Chamber in City Hall.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

PROCUREMENT PROCESS MANAGEMENT TEAM PRESENTATION

Mr. Bill Schaefer, Finance Director, said that the Purchasing Process Management Team will provide a brief presentation outlining their accomplishments to date and the recommendations they have made to enhance and improve the City's buying process.

The nine-member team, which is sponsored by the Finance Department and Purchasing Division, is made up of staff members from eight different departments: Mark Slaughter, Public Works; Corinne Meade, Fire; Donna Shook, Parks and Recreation; Wanda Letterman, Water Resources; Linda Maynard, Legal; Steve Hughes, Civic Center; Alan Hyder, Police and Danette Thompson and Lynn Ducker, Finance.

The team was formed in October 1995. Their initial analysis led them to focus on purchases between $200 and $20,000. (The lower limit was the maximum amount at the time for check order purchases and the

upper limit is the point at and above which North Carolina General Statutes require the use of formal bidding procedures for the purchase of supplies, equipment, etc.) Based on their early analysis, they identified two "low hanging fruit" opportunities: increase the check order limit to $500 (implemented Aug. 1, 1996) and initiate a purchasing card system (initial implementation this month). During their September 1996 presentation to the City's Quality Council the team recommended the following:

- Update the Fiscal Procedures Manual;
- Make Data Entry Screens More User Friendly;
- Conduct Purchasing Process Training for All Users Twice a Year;
- Develop A Tracking System for Requisitions to Show Their Status;
- Keep Employees Informed as Changes Occur -- Use E-Mail;
- Study Central Stores Pricing -- Increase Delivery Locations and Frequency.

Implementation of these recommendations is currently being addressed by other teams/groups which have the expertise to devise and implement effective solutions. The Purchasing Team will meet periodically in the future to assess those other teams'/groups' progress and success in implementing the recommendations.

Mayor Martin thanked the Committee members for a job well done.

LOCATION AND INSTALLATION STANDARDS OF TELECOMMUNICATIONS TOWERS

Ms. Julia Cogburn, Planning & Development Director, said that City Council continued their public hearing on this matter until they had an opportunity to review the information. The public hearing on this matter will be on April 22, 1997. She then explained that the proposed wording amendment clarifies certain standards established for the location of telecommunications towers by the existing ordinance and prohibits the location of telecommunications towers within the viewshed of the Blue Ridge Parkway.

The Asheville Planning and Zoning Commission is recommending approval of an amendment to the Zoning Ordinance regarding telecommunications towers. The proposed amendment clarifies the conditions established by the existing ordinance for the location of telecommunications towers and prohibits towers in the viewshed of the Blue Ridge Parkway.

Ms. Cogburn then reviewed the following changes to the current ordinance and answered various questions from Council regarding those changes:

- Amends the definition of telecommunications towers to exempt structures less than 40 feet in height erected incidental to a commercial operation;

- Clearly states that the setbacks that apply to the location of a tower are those set forth in the district in which the tower is proposed to be located;

- Prohibits the location of telecommunications towers within one-half mile of the Blue Ridge Parkway unless the tower is not visible and/or discernible as a telecommunications tower from the Parkway roadway;

- Prohibits the location of telecommunications towers in areas defined by the U.S. Department of the Interior to be "viewsheds of superior quality";

- Deletes a condition in the current ordinance to truly provide an incentive for monopole tower construction; and

- Clarifies that the addition of antennas to existing non-conforming towers is permitted as long as the addition does not add more than ten (10) feet to the non-conforming dimension.

By use of a map, she identified the area within one-half mile of the Blue Ridge Parkway and the viewsheds of superior quality to allow Council to discern the impact of the proposed amendment. This map would be adopted by reference should the Council adopt the proposed amendments.

The proposed ordinance amendment has been recommended for approval by the Asheville Planning and Zoning Commission by a 5-2 vote. The staff of the Planning and Development Department recommends approval of the amendment.

Councilman Worley also asked for an additional revision to Sec. 30-7-1 Q 9 to read as follows: "No telecommunications towers shall be erected in areas determined by Asheville City council to be "viewsheds of superior quality," taking into consideration the definitions by the United States Department of Interior, Blue Ridge Parkway Office. A map indicating the location of said determined "viewsheds of superior quality" shall be reviewed and adopted by the Asheville City Council and kept on file in the Planning and Development Department of the City of Asheville."

Ms. Cogburn said that the public hearing on this matter will be held on April 22, 1997. At Council's worksession on April 15, 1997, BellSouth Communications will be present to address some concerns they have with the telecommunication towers ordinance, at which time Council can get clarity on other concerns expressed at their worksession today. Depending on the changes, if any, that come out of the worksession on April 15, some of those changes may have to go to the Planning & Zoning Commission for their recommendation to City Council.

A representative from the Blue Ridge Parkway passed out to Council "A Process for Scenic Analysis" and spoke to why the Blue Ridge Parkway has no problem with the location of telecommunications towers within one-half mile of the Blue Ridge Parkway unless the tower is not visible and/or discernible as a telecommunications tower from the Parkway roadway.

CLOSED SESSION

At 4:31 p.m., Councilman Worley moved to go into Closed Session for the following reasons: (1) to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or the United States, or not considered a public record within the meaning of Chapter 132 of the N. C. General Statutes - The law that makes the information confidential is G.S. 143-318.11 (a) (1); (2) to discuss matters related to the location or expansion of industries or other businesses within the City - The statutory authorization is G.S. 143-318.11 (a) (4); and (3) to consult with an attorney employed by the City in order to preserve the attorney-client privilege between the City and the attorney - The statutory authorization is G.S. 143-318.11 (a) (3). This motion was seconded by Vice-Mayor Field and carried unanimously.

At 6:05 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Vice-Mayor Field and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:05 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Thursday - April 3, 1997 - 5:00 p.m.

Continuation of Unified Development Ordinance Public Hearing on Text from March 27, 1997

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson

Absent: Councilman Thomas G. Sellers; City Manager James L. Westbrook Jr.

Mayor Martin reconvened the public hearing on the text of the UDO at 5:00 p.m. He said presentations by the public shall be limited to no more than 10 minutes for the main spokesperson for a group and no more than three minutes for other individuals. Additional information may be conveyed to the City Council in written form.

Mr. H.K. Edgerton, President of the Asheville NAACP, said that many members of the community, especially in the annexed areas, do not understand the UDO process. He questioned City Council's rationale that the Chairman of the Board of Adjustment and the Chairman of the Planning & Zoning Commission be appointees by the City Council.

Councilman Cloninger said that the Board of Adjustment and the Planning & Zoning Commission will both continue to have appointments by both City Council and the Buncombe County Commissioners. However, since both the Planning & Zoning Commission and the Board of Adjustment deal with property located in the City of Asheville or within the extraterritorial jurisdiction of Asheville and not property located in the County, he felt that the Chairperson of those two bodies should be City residents.

Pastor Pete Peery from the First Presbyterian Church said that he was concerned by the UDO could cause more segregation in Asheville, particularly economic segregation. He hoped that Council will make adjustments that will make sure that Asheville keeps the diversity in the neighborhoods. He asked Council to keep options for duplexes, quadraplexes, etc. in the areas that are now being proposed to be listed as RS8 zones. He also urged Council to be sensitive to the impact of the UDO on modest cost housing in this City.

Mr. Darryl Hart, Chairman of the Chamber of Commerce's Local Issues Task Force, said that Sec. 7-12-2 calls for allowing speculative grading as long as various control measures are put in place, such as effective landscaping, erosion control and stormwater runoff. He requested that Council does not make regulations for this activity anymore stringent. As it is currently written, it is something they can live with. He said speculative grading is important to economic development because it allows a potential developer to review what the property could look like. Some developers require speculative grading before they consider a property site. Unavailability of this activity could hurt local economic development attraction efforts. He also voiced concern about Section 15 K 4 E. It states that private streets shall not be permitted in subdivisions. The Chamber supports allowing private streets as long as they meet all the City requirements and specifications for public streets. The development of private streets should be market driven. Requiring all subdivisions to abut public streets and not allowing private streets could hamper development.

Mr. Chris Olivia, Realtor, felt that there was not much land in the City for affordable housing. He said it has to be dense to make it

cost effective. He asked Council to include a clause for a planned unit development to be reviewed for their aesthetic qualities.

Mr. Larry Thompson, Director of Blue Ridge Center, said that they conducted a survey last year of 300 mentally ill adults. The survey revealed that they preferred more independent living situations - apartments rather than boarding or family care homes. They wished to live in integrated settings with non-disabled persons rather than in specialty facilities such as group homes. The content of the Fair Housing Plan has been reassuring to his clients. The commitment by Council in the Plan helps reinforce the special needs population. They are concerned with provisions in the UDO which seem to restrict the availability of housing options for disabled citizens in particular, duplexes, triplexes and quadraplexes. The additional space requirements for duplexes, etc., seems to limit the possibilities of such housing being constructed. He asked Council to take steps to safeguard the option for duplexes, etc., to be located throughout the City in settings which allow our family members to live independent lives in harmony with neighbors.

Mr. John Travis, Haw Creek resident, hoped that whatever ordinance is adopted is fair for everyone. He was concerned with the provision that multi-family uses should be located a minimum of 500 feet from all other multi-family uses. He felt 500 feet provision might be okay in the County, but it was too much separation in the City of Asheville. He hoped Council would examine where they really stand on fair housing and stressed that the disabled really need sidewalks and a choice of residential housing which includes realistically obtainable small apartment projects.

Mr. Larry Holt, employee of the Housing Authority, stated that they are concerned with affordable housing and they see rental housing as affordable housing being more than just a single-family detached residential structure. The Housing Authority has spent the last three years looking for scattered sites for replacement housing. He requested that Council reconsider the 500 foot restriction on placement of two, three and four family homes, primarily because if you can locate a tract of land that would lend itself to single-family and some of the two and three family homes, that 500 foot restriction could create a real problem for the development of these affordable units. He asked Council to leave the opportunity for other developers that can take advantage of various incentives to provide affordable housing.

Ms. Valeria Larrea, Montford resident and owner of a bed and breakfast, and Ms. Ann Colby, Montford resident and owner of a bed and breakfast, addressed Council regarding Secs. 7-16-1 C 9 and 10 as follows:

a. Clarification of Sec. 7-16-1 C 9 f. was received.

b. Sec. 7-16-1 C 9 d. was requested to be amended to read "A maximum of one (1) non-resident or two (2) part-timers of the dwelling may be employed," since it is very difficult to get full-time help that wants to do domestic work and part-times are frequently used.

c. Since multiple housing is proposed to be allowed under the RS4 and RS8 designations, B&B homestays should also be allowed in those areas since they do have only a prohibition on three or fewer rooms.

d. Since there are so many combined restrictions in the special use category that have to be met, B&B's should also be allowed in the RS4

and RS 8 designations where duplexes, triplexes and quadraplexes are allowed.

e. Sec. 7-16-1 C 10 b. states that "Bed and Breakfast Inns shall be located a minimum of 750 feet from other Bed and Breakfast Inns ...." They would like to have that section deleted. If a density requirement if felt necessary in order to keep an entire street or neighborhood from going B&B, a density proposal would be better. Once again, however, they would prefer to see the section deleted.

f. Sec. 7-16-1 C 10 c. states that the owner/manager shall reside in the principal structure and not in any accessory on the property. They asked this be amended to read that the owner/manager shall reside on the property and not be specific as to where.

g. Since accessory apartments are permitted as a use by right for all residential areas under the proposed UDO, they didn't think B&B's should be specifically not allowed to have accessory apartments.

h. Sec. 7-16-1 C 10 e., i., and j. address issues that essentially are meant to help determine how many guest units that one could have on a given piece of property. Their proposal would be that the minimum lot size be determined by the appropriate parking and the size of house together to generate the number of appropriate guest rooms.

i. Sec. 7-16-1 C 10 f. which states that "No existing structure shall be enlarged or expanded for the purpose of providing additional guest rooms," should be deleted. Most B&B's in Asheville are currently in historical areas and any additions or enlargements to structures would come under historical guidelines. If they are not in historic districts, any additions or enlargements have to meet the approval of the contiguous neighbors.

j. Sec. 7-16-1 C 10 k. notes that "signage shall ... not to exceed eight (8) square feet with a maximum height of four (4) feet...." HRC guidelines should be the most stringent of all of the guidelines and in those guidelines signs are not to exceed 9 square feet with no specific height required.

k. Clarification received of Sec. 7-16-1 C 10 I. which should read "No home of less than 3500 square feet shall be used for a bed and breakfast inn."

l. Sec. 7-16-1 C 10 n. be amended to read that "No building less than 35 years old shall be converted." Councilman Worley noted that the Planning & Zoning Commission recommended the wording change to read "No structure less than 30 years old shall be converted."

m. Sec. 7-16-1 C 10 m. was questioned regarding B&B's allowance of "four social gatherings per year to benefit non-profit groups." They asked that the sentence be deleted in its entirety or at least be modified to delete "to benefit non-profit groups". They used an example of a request for a wedding in a B&B.

n. A reference be made to noise restriction in this section and all the residential sections.

o. Speculative grading should be prohibited and requested developers use computer programs which would allow potential developers to show their property to any kind of buyers in various configurations rather than destroying trees, moving rocks and cutting away hillsides.

p. Encouraged Council to require industry to co-locate on telecommunications towers and more importantly to require a bond be posted to make sure that the tower is removed after non-use.

q. Encouraged diversity in neighborhoods.

Ms. Beth Maczka, Director of the Affordable Housing Coalition and resident of 7 Garden Terrace, presented Council with a list of "Common Grounds" that a group of 10 people (3 represented for-profit development, 3 represented the Coalition of Asheville Neighborhoods, 3 represented the Affordable Housing Coalition and 1 person represented transportation) agreed upon. Those were (1) need and desire for different style of input from whole community; (2) where does input go?; (3) we all love Asheville; (4) we are concerned that the UDO may create a city that doesn't meet the needs of all economic levels of citizens; (5) interest in design elements, standards, quality; (6) interest in leaving room for creativity, without so much structure to losing creativity; (7) design unto others, as you would have them design unto you; (8) need trust that "rules" will encourage high quality, appropriate design, and discourage what we don't want; and (9) need for integration between land planning and transportation infrastructure. She offered an example of design standards the Town of Davidson used. She reiterated the facts that support the need for affordable housing in Asheville. On page CDA-7 of the Zoning Ordinance, it defines multiple family dwellings - a residential building with three or more families. The national HUD standard said that buildings that are four units or less are considered single-family. She recommended Council consider changing that definition of multiple families to be five or more units and consider that small scale homes (4 units or less) are in fact single-family. In Sec. 30-5.1.1 referring to R1A overlays, in the moderate density residential district, the phrase which reads "to promote a suitable environment for single-family living" concerned her. She questioned what is a suitable environment for multi-family living. She felt that Sec. 7-11-5, traffic impact analysis, might be used as an excuse not to provide multi-family housing. She suggested that some communities be given incentives to have multi-family housing by prioritizing their sidewalks, street sign needs, greenspace, or park needs. She felt Council could be creative in motivating neighborhoods to embrace diversity. Sec. 7-12-4 reads in part to "provide land use densities to permit the best possible development of hillside areas in order to retain significant natural features." She felt that promoting only single-family can be more of an impact on the land than small scale multi-family.

Mr. Gerald Green, Senior Planner, said that in Planned Unit Development ("PUD") standards, especially on hillsides, they encourage clustering and to density bonuses for clustering and for providing affording homes.

Ms. Maczka felt that PUDs are an innovative type of zoning, but felt they won't be utilized if a rezoning is required and with that kind of appeal process. She said in Sec. 7-16-1, numbers 11, 18, 19, 24, 33 and 55 are all types of housing which provide diversity in particular for low income, elderly and people with special needs. She was concerned about the restriction placed on them. She reiterated that the spacing requirement of 500 feet for two family, three family and four family units is excessive and the double, triple and quadruple lot size prevents units from being affordable. She encouraged City Council to ask for an analysis of what land, if any, will be left in order to site the duplexes, triplexes and quadraplexes with the existing restrictions.

Upon inquiry of Councilman Skalski, Vice-Mayor Field said that there are approximately 22,500 living units in Asheville.

A representative from the Interfaith Alliance for Justice spoke about the negative effect of the UDO on affordable housing.

Mr. Steve Gruber, Asheville resident, spoke to Sec. 7-12-1 7 C. 6 and 7 and questioned if the Board of Adjustment would be amenable to recommending an alternate location or to granting a variance. He spoke in opposition to the spacing requirement of 500 square feet for duplexes, triplexes and quadraplexes and wondered what the rationale was for that requirement. He asked that the section stating that no two telecommunications towers should be constructed within 1320 feet from each other be reviewed so that we do not cluster them that close together.

Ms. Margaret Sexton, Secretary of Wilshire Park Community, said that her community doesn't have a problem with an occasional duplex, triplex or quadruple. It doesn't change the neighborhood like a 20-40 unit apartment complex would. She asked City Council to keep in the 500 square foot spacing requirement for the duplexes, etc.

Mr. Haywood Spangler, Case Manager at the Affordable Housing Coalition and candidate for ordination in the Episcopal Church, spoke as a citizen who rents. He asked that the UDO be crafted in such a way as to provide for the availability of affordable rental housing. People who live in affordable rental housing are hard working citizens who contribute to the flourishing of this community.

Ms. Elizabeth Bocklet, employee with the Affordable Housing Coalition and renter in the Kenilworth area, stressed that we must use our lands in the most efficient ways possible. She felt the restrictions on lot sizes and spacing requirements for duplexes, etc., should be eliminated.

Mr. Jim Barrett stressed that Asheville is a multi-racial community. He saw no need for the distinction between single-family and multi-family units. He voiced concern about the separate buffering requirements for off-street parking at duplexes, triplexes and quadraplexes. If group homes are limited to RM16 and 1/2 mile apart, he felt that might be in violation of the Fair Housing Act. He voiced concern that fraternity and sorority houses don't require their parking to be screened, but duplexes and triplexes do. He didn't understand why boarding houses are limited to RM16, but not bed and breakfasts. He also quested that they have to be 1200 feet apart. He asked staff to review the assisted living facilities if they are limited to RM16. He pointed out that sidewalks may not make sense in steep terrain or if there is no other sidewalk on the entire street. That might have an impact when you are trying to make housing more affordable. He hoped that Council's housing policy is to have diversity in all neighborhoods.

Mr. Jimmy Ramsey, property owner on Swannanoa River Road, felt the Swannanoa River needed to be dredged.

Ms. Minnie Jones, representative of low income people, spoke in support of affordable housing noting that many older people do not want to own a home that needs maintenance.

Mr. Hugh Kelly, student at UNC-A, felt that as Asheville grows there will be more of a need for service oriented jobs. He was concerned that the UDO unnecessarily reduces the amount of Asheville that will be allowed to have multi-family dwellings. He also felt the

UDO unnecessarily limits those dwellings to 500 feet spacing requirements.

At 7:00 p.m., after asking if there was any further comment from the public, Councilman Worley announced a break.

At 7:28 p.m., after asking if there was any further comment from the public, Councilman Hay moved to close the public hearing, noting the public hearing can again be opened. This motion was seconded by Vice-Mayor Field and carried unanimously.

City Council then reviewed the list of changes to the original draft as recommended by the Planning & Zoning Commission with Planning staff keeping a record of any desired changes or questions by individual Council members. It was agreed that only those recommendations for which there were desired changes or questions would be on the list for further discussion and possible vote at the next scheduled UDO meeting.

Council then reviewed the recommendations of the Planning staff and indicated which of those recommendations Council wanted to have on the list for further discussion and possible vote at the next scheduled UDO meeting.

City Council discussed changes that might be desired by individual members of Council and which had not appeared on the Planning & Zoning Commission's recommended changes or the recommendations of staff. By consensus, it was agreed that individual Council members would turn in their lists to the Planning Department by Monday, April 7, 1997, and that those lists would also be discussed and possibly voted on at the next scheduled UDO meeting.

At 10:45 p.m., Councilman Skalski moved to recess the meeting until Tuesday, April 8, 1997, at 6:00 p.m. in the Council Chamber on the Second Floor of the City Hall Building. This motion was seconded by Councilman Cloninger and carried unanimously.

Magdalen Bourbeau
CITY CLERK

MAYOR

Tuesday - April 8, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Skalski gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 6-12, 1997, AS "BUILDING SAFETY WEEK"

Mayor Martin read a proclamation proclaiming the week of April 6-12, 1997, as "Building Safety Week" in the City of Asheville. He presented the proclamation to Fire Chief John Rukavina who briefed the Council on some activities taking place during the week.

II. CONSENT:

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 25, 1997; THE UNIFIED DEVELOPMENT PUBLIC HEARINGS ON MARCH 26, 1997, AND MARCH 27, 1997; AND THE WORKSESSION HELD ON APRIL 1, 1997

B. RESOLUTION NO. 97-43 - RESOLUTION AUTHORIZING SUBMITTAL OF A GRANT APPLICATION TO THE COMMUNITY FOUNDATION OF WNC FOR THE CONTINUED STABILIZATION OF HOPKINS CHAPEL

Summary: The Historic Resources Commission ("HRC") requests approval of a $3,000 grant application to the Community Foundation for permanent structural stabilization of Hopkins Chapel.

The HRC and the Preservation Society of Asheville and Buncombe County are working with the members of Hopkins Chapel AME Zion Church to restore the church. A few months ago Hopkins Chapel was in serious jeopardy of collapse. HRC applied for and received a grant from the National Trust for Historic Preservation to develop and implement an emergency stabilization plan for Hopkins Chapel. A mild winter and temporary shoring saved the church from eminent collapse.

A structural analysis of the building is now complete. The Church, the Preservation Society of Asheville & Buncombe County, and HRC have raised $80,000 for this project. However, the total costs for the structural work and material restoration is over $400,000. Fund raising activities are ongoing.

Only a few structures of historic significance to the African-American community remain. Changes in the social, political, and economic areas resulted in the destruction of some area landmarks. If this continues to happen, future generations may suffer from a lack of identity that comes from not seeing tangible evidence of one's roots. Hopkins Chapel's rich history and central position in the African-

American community is essential to understanding and keeping alive the heritage of African-Americans.

Staff recommends approval of the grant application to the Community Foundation for permanent structural stabilization of Hopkins Chapel.

RESOLUTION BOOK NO. 24 - PAGE 40

C. MOTION SETTING A PUBLIC HEARING ON APRIL 22, 1997, TO REZONE A PORTION OF 2169 HENDERSONVILLE ROAD FROM R-2 LOW DENSITY DISTRICT TO HI HEAVY INDUSTRIAL DISTRICT

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Cloninger and carried unanimously.

ORDINANCES

A. ORDINANCE NO. 2352 - BUDGET AMENDMENT FOR AUDIO VISUAL DESIGN SERVICES TO RENOVATE THE COUNCIL CHAMBER IN THE CITY HALL BUILDING

Summary: This budget amendment, in the amount of $20,000, is for $20,000 for audio-visual design services to renovate the Council Chamber in City Hall.

ORDINANCE BOOK NO. 16 - PAGE 165

B. ORDINANCE NO. 2353 - BUDGET AMENDMENT TO ESTABLISH FUNDING FOR PHASE V OF THE ASHEVILLE URBAN TRAIL

Summary: This budget amendment, in the amount of $27,700, is for Phase V of the Urban Trail. During the Phase V of the Urban Trail, from October 1996 - September 1997, the Committee plans to install a bronze plaque, several pink granite markers, various art objects and bricks along the Trail.

ORDINANCE BOOK NO. 16 - PAGE 167

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Skalski.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first reading.

III. PUBLIC HEARINGS:

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 97-44 - RESOLUTION AUTHORIZING THE EXCHANGE OF CITY OWNED LAND LOCATED ON EDGE HILL ROAD FOR LAND OWNED BY CHARLES MARTIN LOCATED ON CURVE STREET

Mr. Ed Vess, Coordinator of Field Services, said that Disposal Parcel 10.3, PIN 9648.07-58-1294 is a residential lot owned by the City on Edge Hill Avenue valued at $11,200. It is located one block from a lot previously purchased by Mr. Charles Martin at a price of $9,000 to build a house. After the purchase was made it was discovered that the lot is not buildable without the expenditure of a considerable amount of money because of the retention basin on the property. The City's Public Works department recommends reacquiring the Martin lot in order to leave the retention basin in place to control the storm drainage. An exchange of property will satisfy Mr. Martin's need for a buildable lot and the City's need to control storm drainage in the area of Curve Street and Alexander Drive.

On March 25, 1997, the City Council directed the City Clerk to publish notice of the intent of the City Council to authorize the exchange of Disposal Parcel 10.3 for the real property owned by Charles Martin located on Curve Street. The notice was published in the Asheville Citizen-Times on March 28,1997. No response was received. Therefore, the conveyance of Disposal Parcel 10.3 in exchange for the Martin lot on Curve Street should be approved.

Approval of the resolution will authorize conveyance of Disposal Parcel 10.3 in exchange for the Martin property on Curve Street.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Cloninger moved for the adoption of Resolution No. 97-44. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 41

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

On May 7, 1991, City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Commission on April 2, 1997:

Arbor Terrace of Asheville to be located at the corner of Rathfarnham and Sweeten Creek Road

Ms. Erin McLoughlin, Urban Planner, said that this is consideration of a proposal for a 63 unit assisted living facility.

The proposal is for a two story, 63 unit assisted living facility to be located on the corner of Sweeten Creek and Rathfarnham Roads.

The parcel is zoned CG (commercial general). The project meets all zoning, parking, and landscaping requirements. Letters of approval have been received from water, fire and MSD.

Staff has received a few comments in opposition to this group development.

The City Planning and Development staff recommends approval of the group development with no conditions.

At their April 2, 1997, meeting, the Planning and Zoning Commission voted unanimously to recommend approval the group development with no conditions.

Upon inquiry of Vice-Mayor Field concerning potential traffic problems, Ms. McLoughlin said that there will be, at the most, 10 staff and since the average age of the residents is 83 years old, they anticipate most visitation to occur on Sundays.

Council accepted the report of the Planning and Zoning Commission with the above condition, thereby approving the project by taking no action.

B. HAW CREEK GREENWAY

Councilman Cloninger asked, and it was the consensus of Council, that staff contact the Trust for Public Land to see how they can assist the City in the Haw Creek area pilot project and how much they would charge for that assistance.

Ms. Erin McLoughlin, Urban Planner, said that they are currently assisting some in the Haw Creek area, however, she would be happy to discuss this issue with them and report back to Council.

C. CLAIMS

The following claims were received by the City of Asheville during the week of March 14-April 3, 1997: Peggy Sloan (Water), Tia Moorman (Streets), Jeff Dunlap (Streets), Floyd Stone (Streets), Lillian Godfrey (Sanitation), Dennis Higgins (Streets) and Bell South (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

D. UDO DISCUSSION

City Council discussed the items listed for further discussion from their April 3, 1997, Unified Development Ordinance meeting. It was agreed that only those recommendations for which there were desired changes or questions would be on the list again for further discussion and possible vote at the next scheduled UDO meeting.

VII. ADJOURNMENT:

At 6:00 p.m., Councilman Hay moved to adjourn the meeting. This motion was seconded by Councilman Worley and carried unanimously.

Magdalen Burleson
CITY CLERK

MAYOR

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Tuesday - April 8, 1997 - 6:00 p.m.

Continuation of Unified Development Ordinance Meeting on Text from April 3, 1997

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman James J. Skalski; Councilman Thomas G. Sellers; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Mayor Martin reconvened the meeting on the text of the UDO at 6:00 p.m.

The audience consisted of Ms. Margaret Williams from the Mountain Xpress; Ms. Lori Boling from the Council of Independent Business Owners; Mr. Paul Clark from the Asheville Citizen-Times; Mr. S. Douglas Spell, Assistant City Manager; and Mr. F. Mark Combs, Director of Public Works. Mr. H.K. Edgerton and Mr. Jim Barrett entered later but left without speaking.

City Council discussed changes that might be desired by individual members of Council and which had not appeared on the Planning & Zoning Commission's recommended changes or the recommendations of staff. It was agreed that only those recommendations for which there were desired changes or questions would be on the list for further discussion and possible vote at the next scheduled UDO meeting. There was no comment from the public.

At 8:07 p.m., Councilman Skalski moved to continue this meeting until 5:00 p.m. on Thursday, April 10, 1997, in the Banquet Room of the Asheville Civic Center. This motion was seconded by Councilman Worley and carried unanimously.

Magdalen Burleson
CITY CLERK

MAYOR

Thursday - April 10, 1997 - 5:00 p.m.
Banquet Room - Asheville Civic Center

Continuation of Unified Development Ordinance Meeting on Text from April 8, 1997

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman James J. Skalski; Councilman Thomas G. Sellers; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson

Absent: City Manger James L. Westbrook Jr.

Mayor Martin explained that this will be the last meeting of City Council on the text portion of the UDO. City Council will be holding joint public hearings with the Planning & Zoning Commission on the mapping of the UDO beginning at 5:00 p.m. in the Banquet Room in the Asheville Civic Center on April 23, 1997, and April 24, 1997. On April 23 Council will plan to focus primarily on the new zoning district maps for the "East Area" and the "Central Area." On April 24 Council will focus primarily on the new zoning district maps for the "North Area," "West Area," and "South Area." After Council has reviewed the mapping, held their public hearings and made final recommendations on any mapping issues, the entire UDO will be adopted on May 27, 1997.

Councilman Worley moved to re-open the public hearing at 5:20 p.m. This motion was seconded by Vice-Mayor Field and carried unanimously.

Ms. Carolyn Harris, representative from the Canine Country Club, questioned the wording of the prohibited uses in the River District, or does it still say "those not specifically listed are prohibited." In Sec. 7-8-18 said that since gasoline and storage was brought back, she asked if there is some regulation that will define it's proximity to the river.

Mr. Gerald Green, Senior Planner, said that federal and state standards would govern the location and safety factors regarding the storage of gasoline.

Mr. George Watt, Treasurer of Wilshire Park Community Club, asked that there be no encroachment on the RS-8 by allowing multi-family dwellings in that area.

Mr. Carl Ricker felt that the thresholds as they are currently written are reasonable, fair and strict. He did not think they need to be lowered.

Mr. Lloyd Sigman, Chairman of RiverLink, read the following resolution recently passed by RiverLink Board of Directors: "RiverLink's mission is the economic and environmental revitalization of the French Broad River and its tributaries. The RiverLink Board, realizing the River District is an evolving area, endorses the River UDO with permitted and non-permitted uses, as proposed by the Asheville Planning Department and the Asheville Planning and Zoning Commission. In this mixed use district, uses that are neither permitted or not permitted should be considered conditional uses."

Mr. Leo Borregard, resident on Kimberly Avenue, voiced strong opposition in allowing duplexes in RS-4 zones. He felt that to allow duplexes in RS-4 zones, would taint the single-family zones.

Ms. Leni Sitnick said that she was glad to hear that the Council has considered a review mechanism in the document. She asked if Council would consider creating a document of intent when the text and mapping are completed. This document does not need to be a lengthy or complicated document, but more of a mission statement. It will allow the future residents to understand the essence of what Council has done and the essence of Asheville that Council is attempting to maintain and create.

Ms. Hazel Fobes asked if one citizen could be appointed to the all City staff Technical Review Committee ("TRC"). She understands that the citizens have a right to come to the meetings but was unsure if they had the right to speak.

Mr. Green explained that City Council has revised the make-up of the TRC to include two representatives of the Tree/Greenway Commission - one will be a voting member and the other an alternate. He said the purpose of the TRC is to review the plans for their compliance with the technical requirements set forth in the ordinance. There is no leeway for opinion or for consideration of items which are not listed in the rules and regulations of the City, so therefore, the technical expertise of the City staff is what is required at that point. He said that any aggrieved citizen can appeal the decision of the TRC to the Board of Adjustment.

Ms. Fobes, speaking on behalf of the League of Women Voters of Asheville-Buncombe County and Citizens for Safe Drinking Water, asked that Level II and Level III be combined. She also supported Ms. Sitnick's suggestion for a document of intent.

Mr. Joe Adams thanked Council for deleting the bed and breakfasts from the RS-4 permitted uses. He asked Council to delete duplexes in RS-4.

Mr. Mike Lewis, representing the Coalition of Asheville Neighborhoods, asked Council to keep the current thresholds for public hearings where they are. He hoped that Council would keep the discretionary power within City Council and think about the impact that development will have in certain areas.

Mr. Richard Green said that he was in agreement with Councilman Skalski's suggested revisions. He asked that the thresholds for public hearings remain where they're presently at, however, he would like to see them a little lower than 30 residential and the 50,000 square feet. He was in favor of prohibiting speculative grading in residential districts. He was not opposed to speculative grading in commercial districts, however, there needs to be some time limits put on how long a developer can use a site as a "borrow pit" if it's alongside a major thoroughfare in the City. He preferred the multi-family uses not be allowed in the single-family districts. He hoped that school capacity concerns can be addressed when projects are approved.

Ms. Beth Maczka said that the Affordable Housing Coalition is very concerned about the significant reduction in land for multi-family housing, the overall reduction of density in the City and the segregation of housing types by use. They feel that all those will greatly impact the availability of affordable housing in our community. She reminded Council that there are tools to educate the public, such as a visual preference survey that have been used in other communities so that citizens can compare examples of housing types and different types of development so that they can make visual choices of what they want to see in their neighborhood - which has led them to be more comfortable

with higher density and has prevented urban sprawl. She supported Ms. Sitnick's suggestion for a document of intent. In Sec. 7-2-1, she suggested including "to provide a wide range of housing options that lead to thriving safe neighborhoods and individual and family self-sufficiency", a similar statement from the VISION regarding transportation, and a statement that we have a commitment to sustainable and walkable communities.

Mr. Ben Slosman, member of the Board of Directors of the Council of Independent Business Owners, read the following statement "Our organization is closely followed the UDO since its inception. Many of our members have participated on committees and subcommittees throughout this entire process. The business community was told from the beginning that this document would provide upfront guidance for anyone developing in the City of Asheville and at the same time the community would be protected with adequate rules and regulations on development. In addition, the business community was sold on the idea that the subjective nature of the present zoning ordinance would be eliminated. As you are aware, the UDO document has been long tauted as the document that would streamline the entire development process in the City of Asheville. By and large the UDO draft strives to meet these stated objectives. However, the Council of Independent Business Owners would like to express some concerns that we feel need to be addressed. (1) In Sec. 7-5-6 1 of the Planned Unit Developments section, we are concerned over the potentially lengthy appeal process of the PUD preliminary master plan. As the UDO is developed, the PUD concept has been a very forward thinking development tool as proposed by staff and City Council. However, if a developer gets bogged down in the mire of the political arena, the City may never be able to see this concept to full fruition. We feel that allowing anyone to appeal the decision of Council to approve the PUD master plan is wrong. Furthermore we feel that allowing 30 days after a project has been approved for any aggrieved party to appeal the decision to the City Council is wrong. Giving a petitioner the right to appeal any decision by City Council is only democratic, but to allow any person other than the petitioner the right to appeal does not streamline the process. (2) In Secs. 7-5-9 A.1.a. and 7-5-9 B.1.a., the threshold standards for Level II and Level III developments should remain as proposed in the draft UDO. Many individuals from a broad cross-section of the community worked on creating these standards. (3) In Sec. 7-5-9 B.1.b. - don't create a situation where a large existing business will be unable to expand. (4) In Sec. 7-8-2 F.10. referencing sidewalks in new developments. We recommend that you only require sidewalks to be constructed in new expansion areas of existing subdivisions. (5) In Sec. 7-8-18 referencing the River District - allow the River District to remain mixed use as proposed in the draft UDO. This provision was studied thoroughly on many different occasions by property owners along the river as well as river advocates. These individuals agreed on the mixed use concept. To change the whole concept defeats the purpose of creating a vital, vibrant and diverse river community."

Mr. Ron Lambe, West Asheville resident, suggested Council setting up standing community-based review boards to alleviate the fears of no public participation.

Ms. Laurel Eide was concerned that Asheville did not require impact studies, which are required in many states, but not in Asheville.

Mr. Albert Sneed said that a major flaw in the existing ordinance is the discretionary public hearing. He felt the business community could live with the over-regulations, if this flaw was deleted. He also urged Council to set the thresholds high for discretionary public

hearings because the rules are strict. He felt the business community helped move the UDO along was because of the compromise made on the river. The business community and others arrived at a compromise that the River District would be open to everything - if it wasn't prohibited, you could do it. He urged Council to keep the compromise.

Ms. Margaret Sexton, resident on Wilshire Park, urged Council to look at the density of the multi-family dwellings proposed in the UDO. She hoped Council would keep the 500 square foot requirement. They have no problem with duplexes, triplexes or quadraplexes in their neighborhood - they just don't want a large development that would do away with the single-family values of that neighborhood.

Mayor Martin asked if there was any further comment from the public at this time. No one responded. Vice-Mayor Field then moved to close the public hearing at 6:06 p.m. This motion was seconded by Councilman Skalski and carried unanimously.

City Council then discussed each section and arrived at the following motions:

It was the consensus of Council that wherever "Studios, galleries, and workshops for artists, designers, photographers" appears for permitted uses, that the word "craftspersons" be added.

7-1-2 Vice-Mayor Field moved to amend the purpose statement that was agreed upon by the entire Council on April 8, 1997, to delete the words "to provide for housing choices for it's citizens" in substitute in lieu thereof "to provide a wide range of housing options that lead to thriving safe neighborhoods and individual and family self-sufficiency." This motion was seconded by Councilman Hay and carried unanimously.

7-3-2 B.1 Vice-Mayor Field moved to revise the last sentence to read: "The Chairperson of the Planning and Zoning Commission shall be a city resident." This motion died for a lack of a second.

Councilman Cloninger moved to accept the Planning and Zoning Commission recommendation to revise the last sentence to read: "The Chairperson of the Planning and Zoning Commission shall be selected from among those members appointed by the Asheville City Council." This motion was seconded by Councilman Skalski. Said motion failed on a 3-4 vote, with Councilmen Cloninger, Hay and Skalski voting "yes" and Mayor Martin, Vice-Mayor Field, and Councilmen Sellers and Worley voting "no".

Councilman Hay moved to revise the last sentence to read: "The Chairperson of the Planning and Zoning Commission shall be a city resident." This motion was seconded by Vice-Mayor Field. Said motion failed on a 3-4 vote, with Vice-Mayor Field and Councilmen Hay and Worley voting "yes" and Mayor Martin and Councilmen Cloninger, Sellers and Skalski voting "no".

City Attorney Oast stated that since there has not been a successful motion to make the change in the current text, the current text language remains.

7-3-3 B.1 Councilman Worley moved to leave the current text as is. This motion was seconded by Councilman Sellers. Said motion failed on a 3-4 vote, with Mayor Martin and Councilmen Sellers and Worley voting "yes" and Vice-Mayor Field and Councilmen Cloninger, Hay, Skalski voting "no".

Vice-Mayor Field moved to revise the last sentence to read: "The Chairperson of the Board of Adjustment shall be a city resident." This motion was seconded by Councilman Hay. Said motion failed on a 2-5 vote, with Vice-Mayor Field and Councilman Hay voting "yes" and Mayor Martin and Councilmen Cloninger, Sellers, Skalski and Worley voting "no".

Councilman Cloninger moved accept the Planning and Zoning Commission recommendation to revise the last sentence to read: "The Chairperson of the Board of Adjustment shall be selected from among those members appointed by the Asheville City Council." This motion was seconded by Councilman Skalski. Said motion failed on a 3-4 vote, with Councilmen Cloninger, Hay and Skalski voting "yes" and Mayor Martin, Vice-Mayor Field, and Councilmen Sellers and Worley voting "no".

City Attorney Oast stated that since there has not been a successful motion to make the change in the current text, the current text language remains.

7-4-2 B.2. Councilman Skalski moved to delete B.2. and the following language (to the effect) be substitute in its place: "That for the Asheville City Council to consider making any changes whatsoever to the Comprehensive Plan (the 2010 Plan), that they hold City-wide hearings periodically (every five years)." This motion died for a lack of a second.

7-5-4 E. Councilman Skalski moved to delete E. and substitute in its place the following: "E. Notice of an application for a permit for a use by right, subject to special requirements, shall be mailed to the contact person(s) for the neighborhood(s) is (are) known to the Planning and Development Department. This notice shall be mailed at least ten (10) days before the date on which the request is to be considered by the Planning and Development Director." This motion was seconded by Councilman Sellers.

Councilman Skalski moved to amend his motion to delete E. and substitute in its place the following: "E. Notice of an application for a permit for a use by right, subject to special requirements, shall be mailed to the contact person(s) for the neighborhood(s) is who has put his/her name on file with the Planning and Development Department. This notice shall be mailed at least five (5) days before the date on which the request is to be considered by the Planning and Development Director." This amended motion was accepted by Councilman Sellers. This motion failed on a 2-5 vote, with Councilmen Sellers and Skalski voting "yes" and Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Hay and Worley voting "no".

7-5-5 B.2. Councilman Skalski moved to add the following four paragraphs:

"The Planning and Development Director shall confirm with the contact person(s) for the neighborhood whether the developer met with the representatives of the neighborhood.

If developer chooses not meet with the representatives of the neighborhood in which the proposed conditional use will be located, the staff with the Planning and Development Department shall meet with representatives of the neighborhood and shall explain the proposed development. This meeting shall be held prior to the Technical Review Committee meeting.

Notice of any neighborhood meeting, either with the developer or staff, shall be mailed to the owners of abutting property and any other property located within four hundred (400) feet of the property proposed for development at least ten (10) days before the Technical Review Committee meeting.

Notice of any neighborhood meeting, either with the developer or staff, shall be mailed to the contact person(s) for the neighborhood(s) in which the project will be located if the contact person(s) has put his/her name on file with the Planning and Development Department. This notice shall be mailed at least ten (10) days before the Technical Review Committee meeting."

This motion died for a lack of a second.

7-5-5 E. Councilman Skalski moved to amend the third and fourth paragraphs as follows:

"This notice of the City Council meeting shall also be mailed to the owners of abutting property and any other property located within four hundred (400) feet of the property proposed for development at least twenty (20) days before the date on which the request is to be considered.

This notice of the City Council meeting shall also be mailed to the contact person(s) for the neighborhood(s) in which the project is located if the contact person(s) has put his/her name on file with the Planning and Development Department. This notice shall be mailed at least twenty (20) days before the date on which the request is to be presented."

This motion died for a lack of a second.

7-5-5 F.4. Councilman Skalski moved to add the following two criteria to the second paragraph:

"That the proposed use or development will not cause substantial overcrowding of affected public schools;

That the proposed use or development will not substantially disrupt the City's unique scenic nature, nor substantially injure the natural and historic resources and the environmental quality of the City."

This motion was seconded by Councilman Sellers. This motion failed on a 1-6 vote, with Councilman Skalski voting "yes"

and Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Hay, Sellers and Worley voting "no".

7-5-6 B.2. Councilman Skalski moved to add the following four paragraphs:

"The Planning and Development Director shall confirm with the contact person(s) for the neighborhood whether the developer met with the representatives of the neighborhood.

If developer chooses not meet with the representatives of the neighborhood in which the proposed conditional use will be located, the staff with the Planning and Development Department shall meet with representatives of the neighborhood and shall explain the proposed development. This meeting shall be held prior to the Technical Review Committee meeting.

Notice of any neighborhood meeting, either with the developer or staff, shall be mailed to the owners of abutting property and any other property located within four hundred (400) feet of the property proposed for development at least ten (10) days before the Technical Review Committee meeting.

Notice of any neighborhood meeting, either with the developer or staff, shall be mailed to the contact person(s) for the neighborhood(s) in which the project will be located if the contact person(s) has put his/her name on file with the Planning and Development Department. This notice shall be mailed at least ten (10) days before the Technical Review Committee meeting."

This motion died for a lack of a second.

7-5-6 E. Councilman Skalski moved to amend the third and fourth paragraphs as follows:

"This notice shall also be mailed to the owners of abutting property and any other property located within four hundred (400) feet of the property proposed for development at least twenty (20) days before the date on which the request is to be considered.

This notice shall also be mailed to the contact person(s) for the neighborhood(s) in which the project is located if the contact person(s) has put his/her name on file with the Planning and Development Department. This notice shall be mailed at least twenty (20) days before the date on which the request is to be presented."

This motion died for a lack of a second.

7-5-6 F. Councilman Skalski moved to add a new number 4 as follows:

"4. Standards for Review

The Asheville Planning and Zoning Commission and the Asheville City Council shall not approve the Preliminary Master Plan or the PUD District Designation unless each body makes the following findings, based on the evidence and

testimony received at the public hearing or otherwise appearing in the record of this case:

That the proposed use or development of the land will not materially endanger the public health or safety;

That the proposed use is reasonably necessary for the public health or general welfare, such as by enhancing the successful operation of the surrounding area in its basic community functions or by providing an essential service to the community or region;

That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property;

That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;

That the proposed use or development of the land will generally conform with the Comprehensive Plan and other official plans adopted by the City;

That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities;

That the proposed use will not cause undue traffic congestion or create a traffic hazard;

That the proposed use or development will not cause substantial overcrowding of affected public schools; and

That the proposed use or development will not substantially disrupt the City's unique scenic nature, nor substantially injure the natural and historic resources and the environmental quality of the City."

This motion died for a lack of a second.

7-5-7 B.2. Councilman Skalski moved to add the following four paragraphs:

"The Planning and Development Director shall confirm with the contact person(s) for the neighborhood whether the developer met with the representatives of the neighborhood.

If developer chooses not meet with the representatives of the neighborhood in which the proposed conditional use will be located, the staff with the Planning and Development Department shall meet with representatives of the neighborhood and shall explain the proposed development. This meeting shall be held prior to the Technical Review Committee meeting.

Notice of any neighborhood meeting, either with the developer or staff, shall be mailed to the owners of abutting property and any other property located within four hundred (400) feet of the property proposed for development

at least ten (10) days before the Technical Review Committee meeting.

Notice of any neighborhood meeting, either with the developer or staff, shall be mailed to the contact person(s) for the neighborhood(s) in which the project will be located if the contact person(s) has put his/her name on file with the Planning and Development Department. This notice shall be mailed at least ten (10) days before the Technical Review Committee meeting."

This motion died for a lack of a second.

7-5-9 A.1. Councilman Skalski moved to combine Level II and Level III site plan review, eliminate Level III site plan review, and Level II developments would require a Conditional Use Permit. Said motion would amend Secs. 7-5-9.A.1.a and 7-5-9.A.1.b. as follows:

"Level II Site Plan Review Process.

1. Purpose.

The Level II site plan review process is required for development projects within the City of Asheville and its extraterritorial jurisdiction which, due to their size, could have a significant impact upon public services and facilities. This review process is established to assure that adequate services and facilities can be provided for these developments and to assure that they do not negatively impact the area in which they are proposed to be located or the city as a whole. Proposed developments involving new construction, additions, renovations, and changes of use which fall into one or more of the following categories are subject to the Level II site plan review process:

a. New construction, renovations, and changes of use.

(1) Industrial building(s) or structure(s) with a gross floor area of more than 50,000 square feet or an industrial development containing more than fifteen (15) acres;

(2) Commercial buildings, structures, or developments with a gross floor area of more than 25,000 square feet;

(3) Office or Institutional building(s) with a gross floor area of more than 25,000 square feet; or

(4) Any manufactured housing community, camper/trailer park, or residential development containing more than eight (8) individual units.

b. Additions with a gross floor area of fifty percent (50%) or more of the above threshold for new construction for that land use. In the case of manufactured housing parks, camper/trailer parks, or residential development, additions of five (5) or more units on one parcel of land."

Said motion would amend Section 7-5-9 A.2 as follows:

"2. Conditional Use Permit Required.

All developments subject to the Level II site plan review process shall require a Conditional Use Permit and shall comply with the provisions for Conditional Use approval as set forth in Sec. 7-5-5."

Said motion would delete Section 7-5-9 B. in its entirety.

Said motion would amend Section 7-5-9 C. to be re-lettered to 7-5-9 B.

Said motion would amend Section 7-5-9 B.1. "Purpose" to read as follows: "The Level I site plan review process is required for development projects within the City of Asheville and its extraterritorial jurisdiction involving new construction, additions, renovations, and changes, or use which do not meet the requirements of the Level II site plan review processes as set forth in Sec. 7-5-9 A. but do fall into one or more of the following categories:"

This motion died for a lack of a second.

7-5-9 A.1. Vice-Mayor Field moved to accept the Planning & Zoning Commission recommendation for Sec. 7-5-9 A.1.a.1 to read as follows: "Industrial developments containing more than fifteen (15) acres." This motion was seconded by Councilman Worley and carried unanimously.

7-5-9 A.1. Councilman Cloninger moved to revise Sec. 7-5-9 A.1.a.2 as follows: "Commercial buildings, structures, or developments, with a gross floor area of more than 50,000 square feet." This motion was seconded by Councilman Hay. This motion failed on a 2-5 vote, with Councilmen Cloninger and Hay voting "yes" and Mayor Martin, Vice-Mayor Field and Councilmen Sellers, Skalski and Worley voting "no".

Mayor Martin noted that because there was no successful motion to modify the recommendations of the Planning & Zoning Commission, the Planning and Zoning Commission's recommendation becomes the text. Therefore, Sec. 7-5-9 A.1.a.2 reads "Commercial buildings, structures, or developments, with a gross floor area of more than 100,000 square feet."

7-5-9 A.1. Councilman Cloninger moved to revise Sec. 7-5-9 A.1.a.3 as follows: "Office or institutional buildings, structures, or developments with a gross floor area of more than 50,000 square feet." This motion was seconded by Councilman Hay. This motion failed on a 3-4 vote, with Councilmen Cloninger, Hay and Sellers voting "yes" and Mayor Martin, Vice-Mayor Field and Councilmen Skalski and Worley voting "no".

Mayor Martin noted that because there was no successful motion to modify the recommendations of the Planning & Zoning Commission, the Planning and Zoning Commission's recommendation becomes the text. Therefore, Sec. 7-5-9 A.1.a.3 reads "Office or institutional buildings, structures, or developments with a gross floor area of more than 100,000 square feet."

7-5-9 A.1. Councilman Cloninger moved to revise Sec. 7-5-9 A.1.a.4 as follows: "Any manufactured housing community, camper/trailer park, or residential development containing more than thirty (30) individual units." This motion was seconded by Councilman Hay. This motion failed on a 2-5 vote, with Councilmen Cloninger and Hay voting "yes" and Mayor Martin, Vice-Mayor Field and Councilmen Sellers, Skalski and Worley voting "no".

7-5-9 A.1. Councilman Sellers moved to revise Sec. 7-5-9 A.1.a.4 as follows: "Any manufactured housing community, camper/trailer park, or residential development containing more than fifty (50) individual units." This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Hay, Sellers and Worley voting "yes" and Councilman Skalski voting "no".

7-5-9 B.1. Councilman Worley moved to accept the recommendations of the Planning & Zoning Commission for Secs. 7-5-9 B.1.a.1, 7-5-9 B.1.a.2 and 7-5-9 B.1.a.3 as follows:

Sec. 7-5-9 B.1.a.1 as follows: "Industrial building(s) or structure(s) with a gross floor area of 100,000 square feet to an industrial development containing fifteen (15) acres."

Sec. 7-5-9 B.1.a.2 as follows: "Commercial building(s) or structure(s) with a gross floor area of 35,000 square feet to 100,000 square feet."

Sec. 7-5-9 B.1.a.3 as follows: "Office or institutional buildings, structures, or developments with a gross floor area of 35,000 square feet to 100,000 square feet."

Said motion would also amend Sec. 7-6-9 B.1.a.4 as follows: "Any manufactured housing community, camper/trailer park, or residential development containing eight (8) to fifty (50) individual units."

This motion was seconded by Vice-Mayor Field and carried on a 6-1 vote, with Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Hay, Sellers and Worley voting "yes" and Councilman Skalski voting "no".

7-5-9 B.8. Councilman Hay moved to amend Sec. 7-5-9 B.8. to read as follows: "8. Appeals. Appeals of decisions of the Technical Review Committee regarding Level II site plan review process shall be heard by the Board of Adjustment in accordance with the procedures set forth in Sec. 7-6-2." Said motion would also delete the second paragraph in the current text. This motion was seconded by Councilman Worley and carried unanimously.

7-8-2 D. Councilman Worley moved to add "townhouses" in the following sections: 7-8-2 D., 7-8-3 D., 7-8-4 D., 7-8-5 D., 7-8-6 D., 7-8-7 D, 7-8-11 D., 7-8-15 D., 7-8-16 D., 7-8-17 D., and 7-8-19 D. This motion was seconded by Vice-Mayor Field and carried unanimously.

7-8-2 F.10. Councilman Cloninger moved to (1) delete language in Sections 7-8-2 F.10, 7-8-3 F.10, and 7-8-4 F.10, and replace with the following: "Sidewalks shall be provided as

required by and pursuant to the standards for subdivisions contained in Article 15." (2) amend Sections 7-8-5 F.10, 7-8-6 F.10, and 7-8-7 .10 to read as follows: "New multi-family development incorporating ten (10) or more units shall provide sidewalks as specified in the Public Improvements Design Manual. For single family developments, sidewalks shall be provided as required by and pursuant to the standards for subdivisions contained in Article 15." and (3) amend Section 7-15-1 K.6 to read as follows:

"Sidewalks.

Sidewalks shall be provided as follows:

a. On both sides of all thoroughfares, except those thoroughfares designated as 'limited access.'

b. On one side of all collector streets having an average daily traffic (ADT) count of more than 2,000 vehicles per day, as determined by the Director of Public Works.

c. On one side of any street (new or existing) that is located within or adjacent to residential developments subject to this Article.

d. On one side of all streets (new or existing) located within or adjacent to a development subject to this Article when such streets are within 1/2 mile (measured along the street) of a pedestrian generating facility, as determined by the Planning Director, and such streets are not otherwise required to have sidewalks. Such facilities include, but are not limited to: schools, churches, recreational facilities, community centers, commercial areas, transit facilities.

e. Where a new subdivision will abut or be adjacent to an area where sidewalks exist within 100 feet of the new subdivision and there is sufficient right of way, sidewalks in the new subdivision shall be connected to the existing sidewalks.

f. Elsewhere within the subdivision where necessary to facilitate the distribution of population of traffic in a manner that will avoid congestion and overcrowding, and the creation of conditions essential to the public health, safety and general welfare.

All sidewalks required by this Section shall be constructed in accordance with the standards contained in the Public Improvements Design Manual.

No irregularly shaped lots, strips, lots or flag lots shall be created for the purpose of avoiding the application of this Section."

This motion was seconded by Councilman Sellers and carried unanimously.

7-8-2 F.13. Councilman Cloninger moved to prohibit grading without an approved development plan in all residential districts.

This motion was seconded by Councilman Sellers and carried on a 4-3 vote, with Councilmen Hay, Cloninger, Sellers and Skalski voting "yes" and Mayor Martin, Vice-Mayor Field and Councilman Worley voting "no".

7-8-3 D. See Sec. 7-8-2 D. above.

7-8-3 F.10. See Sec. 7-8-2 F.10. above.

7-8-3 F.13 See Sec. 7-8-2 F.13. above.

7-8-4 D. See Sec. 7-8-2 D. above.

7-8-4 F.10. See Sec. 7-8-2 F.10. above.

7-8-4 F.13 See Sec. 7-8-2 F.13. above.

7-8-5 D. See Sec. 7-8-2 D. above.

7-8-5 F.10. See Sec. 7-8-2 F.10. above.

7-8-5 F.13 See Sec. 7-8-2 F.13. above.

7-8-6 D. See Sec. 7-8-2 D. above.

7-8-6 F.10. See Sec. 7-8-2 F.10. above.

7-8-6 F.13 See Sec. 7-8-2 F.13. above.

7-8-7 D. See Sec. 7-8-2 D. above.

7-8-7 F.10. See Sec. 7-8-2 F.10. above.

7-8-7 F.13 See Sec. 7-8-2 F.13. above.

7-8-8 Councilman Skalski moved to prohibit grading without an approved development plan in the following districts: Neighborhood Business District, Office District, Office Business District, Community Business I, Community Business II, and Resort District. This motion died for a lack of a second.

7-8-9 Office District - See Sec. 7-8-8 above.

7-8-10 Office Business District - See Sec. 7-8-8 above.

7-8-11 Community Business I District - See Sec. 7-8-8 above.

7-8-11 D. See Sec. 7-8-2 D. above.

7-8-12 Community Business II District - See Sec. 7-8-8 above.

7-8-13 Resort District - See Sec. 7-8-8 above.

7-8-15 D. See Sec. 7-8-2 D. above.

7-8-16 D. See Sec. 7-8-2 D. above.

7-8-17 D. See Sec. 7-8-2 D. above.

7-8-18 Councilman Cloninger moved to accept the Planning & Zoning Commission's recommendation except to amend the first

sentence of Sec. 7-8-18 C. as follows and add the following language to Sec. 7-8-18 E. as follows: "Any use not listed as either a permitted or prohibited use in the River District may be permitted as a conditional use so long as such use is permitted in any other section of the UDO." This motion was seconded by Councilman Sellers. This motion carried on a 4-3 vote with Councilmen Hay, Cloninger, Sellers and Skalski voting "yes" and Mayor Martin, Vice-Mayor Field and Councilman Worley voting "no".

7-8-18 B. Councilman Cloninger moved that we defer this issue of adding to the list of permitted uses to the River District until a worksession so that Council can adequately review the pro and con factors and get some public input. This motion was seconded by Councilman Sellers and carried on a 6-1 vote, with Vice-Mayor Field voting "no".

7-8-18 F.12 Councilman Worley moved to amend the design and operation standards as follows:

"The speculative grading of land within the River District is prohibited. Natural slopes in excess of forty-five degrees (45 deg.) shall not be graded and the existing vegetation shall not be removed.

River Resource Yard - A river resource yard equal to twenty percent (20%) of the lot depth, with a maximum depth of fifty (50) feet and a minimum depth of twenty (20) feet shall be required of those properties fronting the French Broad River and Swannanoa River banks for all new development on these lots. This river resource yard is to be measured from the top of the banks of the rivers. Existing continuous tree stands shall be preserved to stabilize the river banks. Selective pruning or removal of diseased trees and shrubs in the river resource yard is permissible, provided that a live root system stays intact to provide for bank stabilization. erosion control. and improved water quality.

Uses located within the River District shall be subject to the noise standards set forth in the City's Noise Ordinance (Article IV of the Code of ordinances of the City of Asheville, Sec. 10-81 through Sec. 10-83). No new outdoor loud systems shall be allowed within the River District.

Exposed sources of light shall be shielded so no direct beam of light crosses lot lines. The top of light fixtures shall not exceed thirty (30) feet in height in parking lots and free standing poles, and, where affixed to structures, shall not exceed the top of such structures.

Outdoor storage of materials is prohibited in the required front setback and within fifty (50) feet of a residential district.

River District Design Guidelines: All construction work requiring building, sign, demolition, and zoning permits and projects requesting a variance within the River District shall be subject to a mandatory review/voluntary compliance procedure to address compliance with the River District Design Guidelines as set forth in the adopted Riverfront Plan and the Riverfront Open Space Guidelines."

This motion was seconded by Vice-Mayor Field and carried unanimously.

7-8-19 D. See Sec. 7-8-2 D. above.

7-12-2 F. Councilman Worley moved revise 7-12-2 F.5.b. to read as follows: "Grading is permitted in the buffer area and the developer is required to plant trees and shrubs which are twenty-five percent (25%) larger than normally required in order to quickly reestablish a visual buffer." This motion died for a lack of a second.

7-12-2 F.3. See Sec. 7-8-2 F.13. above.

7-15-1 K.6. See Sec. 7-8-2 F.10. above.

7-15-1 K.10 Councilman Cloninger moved to add a new subsection e. as follows: e. Electrical Utilities. Unless otherwise inconsistent with requirements set forth in this chapter or other regulations of the City of Asheville, electrical lines shall be installed underground." This motion was seconded by Councilman Skalski and carried on a 6-1 vote with Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Hay, Sellers and Skalski voting "yes" and Councilman Worley voting "no."

7-16-1 C. Councilman Cloninger moved to make duplexes conditional uses in RS-2 and duplexes, triplexes and quadraplexes conditional uses in RS-4 and RS-8. This motion was seconded by Councilman Hay. This motion failed on a 3-4 vote, with Councilmen Cloninger, Hay and Sellers voting "yes" and Mayor Martin, Vice-Mayor Field and Councilmen Skalski and Worley voting "no".

Councilman Worley moved for the following:

"18. Duplexes.

a. Use Districts: RS-4, RS-8
b. Duplexes shall be located a minimum of 500 feet from all other multi-family uses (excluding dwellings with accessory apartments) on the same street in RS-4 districts and 300 feet in RS-8 districts.
c. Minimum lot area shall be one hundred and twenty-five percent (125%) of that required for a single residential unit in the respective district.
d. Parking shall be located in the rear and screened with vegetation from adjacent single family uses.
e. The structure shall have a single front entrance and other entrances as required.

Make Duplexes a Conditional use in the RS-2 District."

This motion was seconded by Vice-Mayor Field.

Councilman Worley moved to withdraw his prior motion. Vice-Mayor Field withdrew her second.

Councilman Worley moved to permit duplexes in RS-2 as a conditional use with the following requirements:

a. Duplexes shall be located a minimum of 500 feet from all other multi-family uses (excluding dwellings with accessory apartments) on the same street in RS-4 districts and 300 feet in RS-8 districts.
b. Minimum lot area shall be one hundred and twenty-five percent (125%) of that required for a single residential unit in the respective district.
c. Parking shall be located in the rear and screened with vegetation from adjacent single family uses.
d. The structure shall have a single front entrance and other entrances as required.

This motion was seconded by Councilman Cloninger and carried unanimously.

Councilman Worley moved to adopt the following:

"18. Duplexes.

a. Use Districts: RS-4, RS-8
b. Duplexes shall be located a minimum of 500 feet from all other multi-family uses (excluding dwellings with accessory apartments) on the same street in RS-4 districts and 300 feet in RS-8 districts.
c. Minimum lot area shall be one hundred and twenty-five percent (125%) of that required for a single residential unit in the respective district.
d. Parking shall be located in the rear and screened with vegetation from adjacent single family uses.
e. The structure shall have a single front entrance and other entrances as required.

55. Triplexes.

a. Use Districts: RS-8
b. Triplexes shall be located a minimum of 300 feet from all other multi-family uses (excluding dwellings with accessory apartments) on the same street in the single-family district.
c. Minimum lot area shall be one hundred and fifty (150%) percent of that required for a single residential unit in the respective district.
d. Parking shall be located in the rear and screened with vegetation from adjacent single family uses.
e. The structure shall have a single front entrance and other entrances as required.

33. Quadraplexes.

a. Use Districts: RS-8
b. Quadraplexes shall be located a minimum of 300 feet from all other multi-family uses (excluding dwellings with accessory apartments) on the same street in the single-family district.

c. Minimum lot area shall be two hundred (200%) percent of that required for a single residential unit in the RS-8 district.
d. Parking shall be located in the rear and screened with vegetation from adjacent single family uses.
e. The structure shall have a single front entrance and other entrances as required."

This motion was seconded by Vice-Mayor Field.

Councilman Skalski made a substitute motion to make duplexes, triplexes and quadraplexes as conditional uses in RS-2, RS-4 and RS-8 with the following requirements:

for duplexes:

a. Duplexes shall be located a minimum of 500 feet from all other multi-family uses (excluding dwellings with accessory apartments) on the same street in RS-4 districts and 300 feet in RS-8 districts.
b. Minimum lot area shall be one hundred and twenty-five percent (125%) of that required for a single residential unit in the respective district.
c. Parking shall be located in the rear and screened with vegetation from adjacent single family uses.
d. The structure shall have a single front entrance and other entrances as required.

for triplexes:

a. Triplexes shall be located a minimum of 300 feet from all other multi-family uses (excluding dwellings with accessory apartments) on the same street in the single-family district.
b. Minimum lot area shall be one hundred and fifty (150%) percent of that required for a single residential unit in the respective district.
c. Parking shall be located in the rear and screened with vegetation from adjacent single family uses.
d. The structure shall have a single front entrance and other entrances as required.

for quadraplexes:

a. Quadraplexes shall be located a minimum of 300 feet from all other multi-family uses (excluding dwellings with accessory apartments) on the same street in the single-family district.
b. Minimum lot area shall be two hundred (200%) percent of that required for a single residential unit in the RS-8 district.
c. Parking shall be located in the rear and screened with vegetation from adjacent single family uses.
d. The structure shall have a single front entrance and other entrances as required.

This motion was seconded by Councilman Cloninger. This motion carried on a 4-3 vote, with Councilmen Cloninger, Hay, Sellers and Skalski voting "yes" and Mayor Martin, Vice-Mayor Field and Councilman Worley voting "no".

Since the substitute motion passed, there was no need for a vote on the main motion made by Councilman Worley and seconded by Vice-Mayor Field.

Councilman Worley moved to approve all sections of text of proposed Unified Development Ordinance for which no changes have been recommended by the Asheville Planning and Zoning Commission or the City Council. This motion was seconded by Councilman Hay.

Councilman Worley withdrew his motion to approve all sections of text of proposed Unified Development Ordinance for which no changes have been recommended by the Asheville Planning and Zoning Commission or the City Council so that Councilman Skalski could present his suggested revisions. Councilman Hay withdrew his second.

Councilman Worley moved to approve all sections of text of proposed Unified Development Ordinance for which no changes have been recommended by the Asheville Planning and Zoning Commission or the City Council. This motion was seconded by Councilman Cloninger. This motion carried on a 6-1 vote, with Mayor Martin and Councilmen Cloninger, Hay, Sellers, Skalski and Worley voting "yes" and Vice-Mayor Field voting "no".

Vice-Mayor Field moved to rescind the vote in order to receive additional public comment. This motion was seconded by Councilman Skalski and carried unanimously.

Councilman Hay moved to re-open the public hearing at 9:30 p.m. This motion was seconded by Councilman Sellers and carried unanimously.

Ms. Leni Sitnick felt that if City Council continues its policy of appointing City residents to boards and commissions, then clearly the language that says that a City Council appointee will serve as Chair makes the Chair a resident of the City. She thanked Council for leaving the door open for some creative uses of materials for sidewalks that can be cost effective and stormwater intelligent. She urged Council to consider a generic statement to prohibit polluting poison-spewing industries of any kind (for instance, nuclear power plants). She hoped Council will have a serious worksession on participation fees, because until there is a fair assessment of fees, we will never get ahead of the infrastructure monster that we face. She hoped that variances won't set precedences. She hoped that Council would consider a way to require the Board of Adjustment, the Planning and Zoning Commission and the City Council to formally inform the Tree Commission when they are considering an issue involving trees.

Mr. Joe Adams suggested that the Chairperson of the Planning and Zoning Commission and the Board of Adjustment shall be a City resident and shall be selected from among those members appointed by the City Council.

Mayor Martin asked if there was any further comment from the public. There was no response. Councilman Cloninger then moved to close the public hearing at 9:44 p.m. This motion was seconded by Councilman Hay and carried unanimously.

Councilman Cloninger moved to approve all sections of text of proposed Unified Development Ordinance for which no changes have been recommended by the Asheville Planning and Zoning Commission or the City Council. This motion was seconded by Councilman Sellers. This motion carried on a 6-1 vote, with Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Hay, Sellers and Worley voting "yes" and Councilman Skalski voting "no".

Councilman Worley moved to approve all changes to the proposed text of the Unified Development Ordinance contained in the document entitled "UDO Revisions Agreed Upon by Asheville City Council needing no further discussion," dated April 10, 1997, which includes the following: (a) All changes to the proposed text of the Unified Development Ordinance recommended by the Asheville Planning and Zoning Commission and concurred in by the City Council without modification; (b) All changes to the proposed text of the Unified Development Ordinance recommended by the Asheville Planning and Zoning Commission and modified and concurred in by the Asheville City Council; and (c) All changes to the proposed text of the Unified Development Ordinance considered and concurred in by the Asheville City Council, not arising from recommendations by the Asheville Planning and Zoning Commission. This motion was seconded by Councilman Cloninger.

Vice-Mayor moved to amend Councilman Worley's motion to include the first sentence of Sec. 7-9-1 E.1.d. to read that if there is more than 50% affordability, it's a 100% density bonus; if it's a 41%-50% affordability, it's a 75% density bonus; if it's a 31%-40%, it's a 50% density bonus; and if it's a 20%-30%, it's a 25% density bonus. This motion was seconded by Councilman Hay and carried unanimously.

Councilman Worley's motion, which was seconded by Councilman Cloninger, carried on a 6-1 vote, with Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Hay, Sellers and Worley voting "yes" and Councilman Skalski voting "no".

Councilman Worley moved to approve all changes to the proposed text of the Unified Development Ordinance made by Council action at this April 10, 1997, meeting, including changes related to those items contained in the document entitled "UDO Revisions for Further Discussion on April 10, 1997," and any other changes made as a result of Council action at this April 10, 1997, meeting. This motion was seconded by Councilman Hay and carried on a 6-1 vote, with Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Hay, Sellers and Worley voting "yes" and Councilman Skalski voting "no".

At 9:50 p.m., Councilman Worley moved to adjourn the meeting. This motion was seconded by Councilman Cloninger.

Councilman Worley moved to withdraw his motion to adjourn the meeting. Councilman Cloninger withdrew his second.

Councilman Cloninger said that the intention of Council's action is to finalize the text of the proposed Unified Development Ordinance, to be compiled into one integrated document for final consideration by the Council at the time of final action on the proposed revisions to the City of Asheville zoning classification maps, anticipated to occur on May 27, 1997. To that end, he moved that Council debate on this item be closed, subject to being reopened only upon a 3/4 vote of the entire Council. This motion was seconded by Councilman Sellers.

Councilman Worley moved to amend Councilman Cloninger's motion that "Council debate on this item be closed, subject to being reopened only upon a 2/3 vote of the entire Council." This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Cloninger's motion, which was seconded by Councilman Sellers, carried on a 6-1 vote, with Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Hay, Sellers and Worley voting "yes" and Councilman Skalski voting "no".

Councilman Hay said that in order to facilitate further action, if necessary, he moved that this meeting and Council's consideration of the final draft of the Unified Development Ordnance be continued to April 23, 1997, at 5:00 p.m., in the Banquet Room of the Civic Center, at which time Council will begin its consideration of the proposed amendments to the City of Asheville zoning classification maps. This motion was seconded by Councilman Worley and carried unanimously.

At 9:57 p.m., Councilman Worley moved to adjourn the meeting. This motion was seconded by Councilman Sellers and carried unanimously.

Magdalen Bourleon
CITY CLERK

MAYOR

Tuesday - April 15, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

1997 Summertime Kids Grant Application

Summary: Funds are available through the Community Foundation of Western North Carolina in the Summertime Kids 1997 program to provide fun and safe summer activities for youth. The City of Asheville has applied for funding for enrichment adventure activities for the Summer Teen Program.

The Summer Teen Program is designed to provide recreation activities for teens ages 13-16 for eight weeks during the summer. The program is located in seven locations throughout the city in community centers, parks, and low income neighborhoods. The Teen Program will offer bowling, swimming and pool parties, hiking, skating, tennis, golf, fitness, dances, games, arts and crafts, sports and tournaments, field trips, and special events. Grant funds will be used to implement the enrichment adventure activities of a challenge ropes course, rock climbing, horseback riding, and rollerblading. The amount of the grant request is $2,000. The Parks and Recreation Department's match of $27,080 will be in labor, administration, transportation, supplies, and training for the overall Summer Teen Program. The funds are budgeted in the Recreation Division.

The Parks and Recreation Department recommends the approval of the application for the grant funds through the Community Foundation of Western North Carolina through the Summertime Kids 1997 program.

Advertise Sale of Disposal Parcel 5 at Courtland and Montford in the Head of Montford Redevelopment Project

Summary: The consideration of a bid from Robert A. Eidus in the amount of $39,100.00 for the purchase of Disposal Parcel 5 in the Head of Montford Redevelopment Project.

Disposal Parcel 5 is zoned R4 Residential and is located on Montford Avenue at the corner of Courtland Avenue. It comprises 8,712 square feet of land along with improvements consisting of a small bungalow and a small commercial type structure previously Miller Cab Co. The Fair Reuse Value for both parcels is $39,000. The proposed use for the property in the Head of Montford Redevelopment Plan is for office use compatible with the zoning.

Robert A. Eidus has submitted a bid to purchase Disposal Parcel 5 in the amount of $39,100. The bid is contingent upon the City financing 90% of the purchase price for a period of one year at 7% interest. The proposal includes a plan to renovate the buildings for office space along with landscaping at an anticipated development cost of $19,850. The renovated structures will be occupied by an Internet server and a portion of the offices of the North Carolina Ginseng and Goldenseal

Company, a medicinal organic herbs and roots marketer which is owned and operated by Mr. Eidus.

The Montford Neighborhood Advisory Committee has expressed support for the project.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Community Development staff recommends adoption of the resolution authorizing advertisement for upset bids.

Acceptance of Greenway Easements

Summary: This resolution would authorize the Mayor to accept donations of real property for greenways or greenway systems.

The City of Asheville is interested in establishing greenways or greenway systems throughout the corporate limits of the City of Asheville. Property owners may offer to donate or convey to the City of Asheville real property or easements over real property so that the property may be used for the greenway systems. It is necessary to establish a process for acceptance of these donations or conveyances.

The City Attorney's Office recommends adoption of the resolution.

Budget Amendment re: Additional Funds for Fair Housing

Summary: This budget amendment will increase federal funding for the tenth year of the Fair Housing Assistance Program.

On April 28, 1987, the City of Asheville was recognized by HUD as having a fair housing enforcement program which is substantially equivalent to that of the Federal Fair Housing Act. The City has been carrying out its fair housing program under contract with the Asheville-Buncombe Community Relations Council and Fair Housing Commission since January 1988.

In September 1996 the City received funding approval from HUD of $16,900 for the current Fair Housing Assistance Program. On March 31, 1997, the City was notified that an additional $15,000 will be received from the Fair Housing Assistance Program for the tenth year funding. The total funding for this program for the tenth year will now be $31,900. The program is administered under contract by the Asheville-Buncombe Community Relations Council which provides staff support to the Asheville-Buncombe Fair Housing Commission. The City Community Development Division serves as Lead Entity and monitors the program.

1997 Bele Chere Budget

Summary: Over the past several months, various committees of the Bele Chere Board and staff liaisons have been working to complete a balanced budget for the 1997 Bele Chere Festival. This budget ordinance establishes this budget, in the amount of $433,200, for anticipated expenditures and revenues for the upcoming festival.

The Parks and Recreation Advisory Board, the Bele Chere Board, and the Parks and Recreation staff request approval by City Council of the budget ordinance.

Grant Application Task Force

Summary: Staff provided City Council an update with regard to the Grant Application Task Force established to coordinate the City's efforts to secure grants.

At the recent City Council Retreat, Council asked the Parks and Recreation Department to develop a Grant Application Task Force to serve as a tool to coordinate the City's efforts to secure grants. An internal network was born out of the knowledge that funding opportunities are heavily weighted for organizations who approach problem solving from a multi-disciplinary perspective. Collaboration, cooperation, and partnerships are key words in virtually all federal, state, and private funding proposals. We recognize the need to foster the same sense of collaboration and partnership among City departments. Only by sharing resources and information can we strengthen the City's position in future funding applications. The Task Force will meet on a regular schedule to coordinate and manage grant applications and share resources.

The Grant Application Task Force met on April 9, 1997, to determine the logistics and objectives of the Task Team. Representatives include staff members of City departments who are involved in applying for and managing grant funds.

Task Team Objectives:

- Identify City departments who are involved in applying for grants and participate in the Task Team;
- Learn more about individual department function, structure, mission, and grant needs;
- Provide a forum to exchange ideas and program concepts;
- Coordinate our grant resources and application efforts;
- Enhance our ability to locate and match grant resources with projects;
- Share information and resources to strengthen the City's position for funding; and
- Enhance and foster collaborative partnerships among departments and and community organizations through public/private/non-profit partnerships.

This information serves as a status report to City Council outlining the formation and objective of the Grant Application Task Force for the City of Asheville.

Ray L. Kisiah Park MSD Easement and Budget Amendment

Summary: The City of Asheville and the Metropolitan Sewerage District of Buncombe County wish to enter into an easement agreement for a sewer easement across Ray L. Kisiah Park. The City of Asheville and the Metropolitan Sewerage District of Buncombe County have been working for a period of time to address an easement agreement across property operated by the Parks and Recreation Department. The parcel of property is located at Ray L. Kisiah Park. In return for the easement, MSD has agreed to pay the City of Asheville $10,500 for the relocation of the sewer line. This agreement was part of the original negotiation concerning the construction of Ray L. Kisiah Park which resulted in the moving of an existing sewer line to a new location. The Parks and Recreation staff and the Legal Division have reviewed and approved this agreement.

In addition, approval is requested for a budget amendment to allocate the $10,500 into the existing capital improvement budget for Ray L. Kisiah Park. This money will be used to construct a storage building at the park.

The Parks and Recreation Department recommends that City Council approve an easement agreement across Ray L. Kisiah Park and the budget amendment which will appropriate funds into the existing capital improvement budget to be expended for park improvements.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

TELECOMMUNICATIONS TOWERS

Ms. Julia Cogburn, Planning & Development Director, said that BellSouth Communications seeks to discuss with City Council concerns over the City's current telecommunications tower regulations.

BellSouth Mobility recently submitted to Asheville City Council a letter detailing concerns the company has with the City's telecommunication tower regulations, most importantly BellSouth's inability to service the Beaverdam and Haw Creek areas. She then reviewed with Council the following listing of the BellSouth proposals. Mr. Clay Dover spoke on behalf of BellSouth Mobility.

BellSouth Proposals

1) Require only Master License to be provided to the City each year as opposed to the voluminous license for each facility.

STAFF COMMENT: Staff is looking into this with BellSouth to insure that the City receives the information it feels is needed on an annual basis.

2) Allow use of strobe lighting.

STAFF COMMENT: It was staff's feeling in our earlier work on the ordinance as currently adopted, that strobe lighting was not considered the preferred lighting choice for the City of Asheville. The current provision states that FAA standards must be met.

Mr. Dover said that a strobe or flashing red light would be consistent with FAA guidelines regarding safety.

Discussion resulted in keeping lighting as least obtrusive to the community and still provide safety which the FAA requires. Consensus of Council to limit use of strobe lights.

3) Reduce setbacks required.

STAFF COMMENT: Staff realizes this is a policy decision; however, they suggest discussing BellSouth's request that towers be allowed in all districts, subject to obtaining a conditional use permit from City Council.

Mr. Dover said that BellSouth as been unable to find any location in the Beaverdam and Haw Creek areas which would permit a

telecommunication tower, or any other tower for co-location, that will meet the coverage requirements. In the Beaverdam area, the 125 foot setback wipes out any possibility of locating a BellSouth tower along Merrimon Avenue and other potential sites are eliminated since they are situated in a residential zoning district under the current ordinance and as proposed in the UDO. The telecommunications towers ordinance eliminates all practical and feasible avenues to providing coverage to two important areas within the City of Asheville zoning jurisdiction - Haw Creek and Beaverdam. He presented Council with several letters from clients they are unable to service because they are limited in their coverage area.

By allowing towers in all districts, subject to obtaining a conditional use permit, any telecommunication company would have the opportunity to present their technology to the Council and the Council would then have the right to approve towers on a case-by-case basis. He then passed out examples of stealth technology that BellSouth believes can be used in harmony with certain areas of the City were towers are now excluded. With a conditional use permit, BellSouth would have an opportunity to present their proposed plans for new towers by showing they are compatible with surrounding neighborhoods.

4) Allow antennas on buildings.

STAFF COMMENT: Antennas are already allowed if meeting certain conditions.

5) Reconsider suggested amendment on the prohibition within one-half mile of the Blue Ridge Parkway.

STAFF COMMENT: This issue is will come before City Council for a public hearing on April 22, 1997. Staff feels this is a policy decision.

6) Do not adopt suggested prohibition for telecommunications towers within "viewsheds of superior quality."

STAFF COMMENT: This issue is will come before City Council for a public hearing on April 22, 1997. Staff feels this is a policy decision.

7) Allow use of other colors for telecommunications towers.

STAFF COMMENT: Staff has requesting additional information on FAA requirements regarding color; otherwise, they see no problem with condition being changed to allow for "blending color" as approved by the body issuing conditional use approval.

8) Eliminate the last sentence of the provision concerning looking for opportunities to locate antenna on existing structures.

STAFF COMMENT: The sentence in the ordinance which refers to location on other existing structures is simply a list of suggestions.

9) Allow telecommunication towers in all districts with appropriate conditions.

STAFF COMMENT: See number 3 above for staff comment and discussion.

10) Allow for telecommunication antennas in historic districts if the applicant receives a certificate of appropriateness from the Historic Resources Commission. Also, elimination of the 1000 foot limitation for towers that are reasonably concealed from view from the Historic District.

STAFF COMMENT: Staff feels that if antennas are concealed or blended in well enough on a historic structure, they might be able to receive a certificate of appropriateness.

City Council then discussed their concern of balancing the visual effect of the community and the need to make Asheville technology ready. They felt that they may be able to assist BellSouth with some of it's concerns by the use of stealth technology.

Mayor Martin instructed staff to review the comments and suggestions and report back to City Council with recommendations in which we can help BellSouth meet their needs.

BELE CHERE ALCOHOL POLICY AND PROVISIONS FOR POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 1997 BELE CHERE FESTIVAL

Mr. Irby Brinson, Director of Parks & Recreation, said that in May, 1996, Asheville City Council approved an ordinance prohibiting consumption and/or possession of open containers of malt beverages and unfortified wine on public streets and other property owned or occupied by the City of Asheville. In order to allow for the control of the sale and consumption of alcohol at Bele Chere, it is necessary for City Council to approve this resolution.

Over the past several months, a Bele Chere Alcohol Task Force has been meeting to address concerns from downtown merchants, festival participants and Bele Chere Board members concerning alcohol at Bele Chere. The Task Force was made up of representatives from downtown merchants, City Council, Parks and Recreation staff, Legal Division, Asheville Police Department, the Alcohol Law Enforcement Board and Bele Chere Board. The recommendations from this task force are incorporated into the resolution and are as follows:

I. General

A. Bele Chere beer booths will be operated by the City and staffed by non-profits as in the past.

II. Wristbands: Sell for $1.00 each.

A. Wristbands are a permit to carry alcohol, not proof of ID.
B. Wristband sellers will be asked to ID the person, however the final responsibility for abiding by ABC laws lies with the beer server.
C. Wristbands can be purchased by the merchant before the festival for $0.90 each and can be sold for $1.00 each.
D. A different color wristband will be used each day.
E. Wristbands will be bought back from the merchants in full sheets only.
F. The specifics of payment from merchants to the city have yet to be determined.

III. Site Locations

A. There has been a 1/3 reduction in beverage stations. There will be nine beverage stations in 1997:

1. Battery Park
2. Haywood and College
3. Pritchard Park
4. Lexington and College
5. Pack Square
6. Pack Square
7. College at Sculpture
8. S. Spruce and College
9. City-County Plaza

The exact locations are to be determined after further research of other logistical concerns.

B. The location of the maze will be changed to allow more traffic flow to the City/County Plaza area.

C. Festival beverage sales are Friday noon to 10:00 p.m., Saturday 11:00 a.m. to 10:00 p.m., and Sunday noon to 6:00 p.m.

D. Consumption of alcoholic beverages will be allowed within the festival area 30 minutes after sales end on each day.

IV. Alcohol-free Areas

A. The alcohol-free area will include the Radisson parking lot and the area from the cross walk at the County Courthouse down to the children's area.

B. Signs at the alcohol-free area will be larger this year.

C. Advertise alcohol-free areas in the tabloid.

V. Alcohol Sales:

A. Laws and Ordinances:

1. APD and ALE will meet individually with all merchants who hold an ABC license prior to the festival to explain their enforcement efforts.
2. APD in conjunction with ALE will stringently enforce state law and city ordinances related to the festival for alcohol sales and consumption.
3. Individual merchants are to establish their prices at the beginning of each day. Prices must remain the same for that day. The festival will follow this procedure as well.
4. The City ordinance states that coolers are not allowed within the festival area. APD will enforce this. This will be advertised in the tabloid, on the shuttles, and on the barricade signs.
5. Signage for merchant alcohol sales is limited by ABC regulation to lettering five inches tall and two inches apart. Only one sign per establishment.
6. Hawking is not allowed for alcoholic beverages.
7. Under state law, merchants can sell alcohol until 2:00 a.m.
8. ALE will send a letter to all downtown merchants holding an ABC license stating that they cannot remove their windows for the purpose of selling alcoholic beverages.

9. All ABC laws remain in effect. Effect of Council Resolution, if adopted, is to permit open containers and public consumption.

B. Bele Chere/Merchants Voluntary Compliance:

1. The point of sale should be no less than 5 feet from the door unless the existing point of sale counter is less than 5 feet from the door as of the date this is approved by City Council.
2. Only plastic cups are allowed on the street. Pursuant to ABC law, merchants must sell beer in the unopened, manufacturer's original container and ask the patron to pour this into a cup upon leaving the premises.
3. Bele Chere and merchants will all use a clear plastic cup. Bele Chere reserves the right to place logos on the cup if this is a sponsored item.
4. Merchants will provide and manage appropriate trash receptacles at the exits of their establishments.
5. Merchants will voluntarily "police" themselves and the Bele Chere merchant representatives will encourage enforcement.

This task force feels that the cooperative arrangement between all parties has been successful in trying to address the major issues based upon past history of the festival.

The Parks and Recreation Advisory Board, Bele Chere Board, Bele Chere Alcohol Task Force, and the Parks and Recreation staff recommend approval of the recommendations and the resolution to allow alcohol during the Bele Chere Festival.

Councilman Sellers reiterated Council's goal to be out of the alcohol business by 1999.

Upon inquiry of Mayor Martin about what will replace the loss of revenue from the sale of alcohol, Mr. Brinson said that they are looking to increase sponsorships and will probably continue to sell wristbands to help with the lost revenue.

Mr. Brinson answered Vice-Mayor Field's concerns about control of alcohol during Bele Chere if the City is proposing to be out of the "alcohol business" by 1999.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

LAKE CRAIG AGREEMENT

Mr. Irby Brinson, Director of Parks & Recreation, said that the Parks and Recreation Department requests City Council approval of an agreement between the City of Asheville, County of Buncombe, RiverLink, Western North Carolina Soccer Foundation, and Friends of the Western North Carolina Nature Center to jointly develop the "Lake Craig Property" for recreation and educational use.

The Asheville City Council authorized the Parks and Recreation Department to participate as a member of the Lake Craig Task Force in September, 1995. Over the past 1 1/2 years, members of the Parks and Recreation Department, Buncombe County, RiverLink, Western North Carolina Soccer Foundation, and Friends of the Western North Carolina

Nature Center have been meeting to discuss the feasibility of purchasing and developing "Lake Craig Property" for recreation and educational use. During this period of time, an agreement has been reviewed by all parties in regard to each party's commitment to making this project a reality. The agreement outlines each party's responsibilities, noting that the City will purchase the property and the WNC Soccer Foundation will raise the necessary funds to build and maintain the project. It is the intent of the Task Force to have this agreement signed and completed within the next month in order to proceed with the next step of the project.

The Parks and Recreation Department and the Lake Craig Task Force recommends that City Council approve the Lake Craig Project agreement.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

RESOLUTION NO. 97-45 - RESOLUTION AUTHORIZING THE CITY ATTORNEY TO FILE A COMPLAINT AND DECLARATION OF TAKING AND OTHER RELATED DOCUMENTS IN THE BUNCOMBE COUNTY SUPERIOR COURT FOR THE CONDEMNATION OF CERTAIN TRACTS OF REAL PROPERTY LOCATED IN THE WEST ASHEVILLE ANNEXED AREA FOR THE CONSTRUCTION AND INSTALLATION OF WASTEWATER LINES

Assistant City Manager Doug Spell said that this is for Council's consideration of adopting a "Resolution of Condemnation" for four (4) properties located in the Woodside Hills Subdivision.

The City of Asheville has previously awarded a contract for the installation of a gravity sanitary sewer system to serve the Woodside Hills Subdivision and construction is underway. This project will provide access to public sanitary sewer service within the subdivision. I would note that there are several properties in this subdivision with failing septic tanks and the activation of a portion of the gravity sanitary sewer line has just recently provided an opportunity for these properties to abandon the septic systems and connect to public sanitary sewer.

Over the past several months, easement negotiations have been on-going with property owners in the Woodside Hills Subdivision. However, there are four (4) properties in which agreement has not been reached at this time regarding a sanitary sewer easement. Due to the time factor of having a contractor on site and the need to keep the construction project moving smoothly, staff requests Council consideration of a "Resolution of Condemnation" on four (4) properties in which easement negotiations have not been finalized. These properties are as follows:

- Donna Kay Haney property along Mayfair Drive (PIN 9617.09-07-1133);
- Louis and Sue Waller property along Crestwood Lane (PIN 9617.08-97-4718);
- Fletcher Adams property along Pritchard Road (PIN 9607.12-95-0739);
- Regina Sue Moss property along Mayfair Drive (PIN 9607.12-97-2054).

The City is in the process of appraising each of these properties to determine the fair market value of the property taking into

consideration the provision of sanitary sewer service. From the City's perspective, this is a definite enhancement of the properties.

He noted that the City will continue to work with these property owners to attempt to finalize the easement negotiations. The primary purpose of the "Resolution of Condemnation" is to establish a time parameter of 30 days, which is a prerequisite to the filing of the complaint and "Declaration of Taking" so that construction may proceed.

Staff recommends that the Resolution of Condemnation be approved for the four (4) properties listed herein with direction for staff to continue to negotiate with the property owners to try and reach resolution if possible.

Councilman Worley moved to waive the rules and take formal action on this item at this time. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mayor Martin said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Sellers moved for the adoption of Resolution No. 97-45. This motion was seconded by Vice-Mayor Field and carried unanimously.

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OTHER BUSINESS

Upon inquiry of Councilman Cloninger about some pockets of annexed areas in the City of Asheville that still don't have sewer services, City Manager Westbrook said that he is working with MSD on identifying those areas.

CLOSED SESSION

At 4:25 p.m., Councilman Worley moved to go into closed session for the following reasons: (1) to discuss matters related to the location or expansion of industries or other businesses in the area served by the Asheville City Council - The statutory authorization is contained in G.S. 143-318.11 (a) (4); and (2) to establish, or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the price and other material terms in a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease - The statutory authorization is contained in G.S. 143-318.11 (a) (5). This motion was seconded by Councilman Sellers and carried unanimously.

At 4:52 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:52 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - April 22, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL 24, 1997, AS "PARK AND RECREATION VOLUNTEER DAY"

Mayor Martin read a proclamation proclaiming April 24, 1997, as "Parks and Recreation Volunteer Day" in the City of Asheville. He presented the proclamation to Mr. Ray Bailey who thanked Council for their support.

B. RECOGNITION OF BOY SCOUTS FROM TROOP 108 OF THE GROCE UNITED METHODIST CHURCH OF ASHEVILLE

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE UDO PUBLIC HEARING HELD ON APRIL 3, 1997; THE FORMAL MEETING AND THE UDO MEETING HELD ON APRIL 8, 1997; THE UDO MEETING HELD ON APRIL 10, 1997; AND THE WORKSESSION HELD ON APRIL 15, 1997

B. RESOLUTION NO. 97-46 - RESOLUTION AUTHORIZING THE PURCHASE OF DISPOSAL PARCEL 4B TO CAROL ANNETTE TENANT

Summary: On March 25, 1997, the City Council directed the City Clerk to advertise for upset bids on Disposal Parcel 4B. The advertisement ran in the Asheville Citizen-Times on March 28, 1997, as provided in N. C. Gen. Stat. sec. 160A-269. A response to the advertisement was not received. Therefore, the offer to purchase from Carol Annette Tenant in the amount of $7,650.00 was not upset and the sale to Carol Annette Tenant should be approved.

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C. RESOLUTION NO. 97-47 - RESOLUTION PROVIDING FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE 1997 BELE CHERE FESTIVAL

Summary: In May, 1996, Asheville City Council approved an ordinance prohibiting consumption and/or possession of open containers of malt beverages and unfortified wine on public streets and other property owned or occupied by the City of Asheville. In order to allow for the control of the sale and consumption of alcohol at Bele Chere, it is necessary for City Council to approve this resolution.

Over the past several months, a Bele Chere Alcohol Task Force has been meeting to address concerns from downtown merchants, festival participants and Bele Chere Board members concerning alcohol at Bele

Chere. The Task Force was made up of representatives from downtown merchants, City Council, Parks and Recreation staff, Legal Division, Asheville Police Department, the Alcohol Law Enforcement Board and Bele Chere Board. The recommendations from this task force are incorporated into the resolution. This task force feels that the cooperative arrangement between all parties has been successful in trying to address the major issues based upon past history of the festival.

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D. RESOLUTION NO. 97-48 - RESOLUTION AUTHORIZING THE SALE OF TRACT 3 IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT TO J.C. AND SHIRLEY DOZIER

Summary: On March 25, 1997, the City Council directed the City Clerk to advertise for upset bids on Disposal Parcel Tract 3. The advertisement ran in the Asheville Citizen-Times on March 28, 1997, as provided in N. C. Gen. Stat. sec. 160A-269. A response to the advertisement was not received. Therefore, the offer to purchase from J. C. and Shirley Dozier in the amount of $3,300.01 was not upset and the sale to Mr. and Mrs. Dozier should be approved.

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E. RESOLUTION NO. 97-49 - RESOLUTION ENDORSING APPOINTMENT TO THE OPPORTUNITY CORPORATION OF MADISON AND BUNCOMBE COUNTIES

Summary: The term of Ms. Cathy Pollock, as a City representative on the Opportunity Corporation of Madison-Buncombe Counties will expire in March, 1997. The Mayor has reappointed Ms. Pollock, from A-B Technical College, to serve a three year term, term to expire on April 22, 2000.

RESOLUTION BOOK NO. 24 - PAGE 49

F. RESOLUTION NO. 97-50 - RESOLUTION AUTHORIZING THE EXECUTION OF AN EASEMENT IN FAVOR OF THE METROPOLITAN SEWERAGE DISTRICT ACROSS PROPERTY OWNED BY THE CITY OF ASHEVILLE AND KNOWN AS RAY KISIAH PARK

Summary: The City of Asheville and the Metropolitan Sewerage District of Buncombe County wish to enter into an easement agreement for a sewer easement across Ray L. Kisiah Park. The City of Asheville and the Metropolitan Sewerage District of Buncombe County have been working for a period of time to address an easement agreement across property operated by the Parks and Recreation Department. The parcel of property is located at Ray L. Kisiah Park. In return for the easement, MSD has agreed to pay the City of Asheville $10,500 for the relocation of the sewer line. This agreement was part of the original negotiation concerning the construction of Ray L. Kisiah Park which resulted in the moving of an existing sewer line to a new location. The Parks and Recreation staff and the Legal Division have reviewed and approved this agreement.

RESOLUTION BOOK NO. 24 - PAGE 50

G. RESOLUTION NO. 97-51 - RESOLUTION AUTHORIZING THE GRANT APPLICATION WITH THE COMMUNITY FOUNDATION OF WNC FOR THE SUMMERTIME KIDS 1997 PROGRAM

Summary: Funds are available through the Community Foundation of Western North Carolina in the Summertime Kids 1997 program to provide fun and safe summer activities for youth. The City of Asheville has applied for funding for enrichment adventure activities for the Summer Teen Program.

The Summer Teen Program is designed to provide recreation activities for teens ages 13-16 for eight weeks during the summer. The program is located in seven locations throughout the city in community centers, parks, and low income neighborhoods. The Teen Program will offer bowling, swimming and pool parties, hiking, skating, tennis, golf, fitness, dances, games, arts and crafts, sports and tournaments, field trips, and special events. Grant funds will be used to implement the enrichment adventure activities of a challenge ropes course, rock climbing, horseback riding, and rollerblading. The amount of the grant request is $2,000. The Parks and Recreation Department's match of $27,080 will be in labor, administration, transportation, supplies, and training for the overall Summer Teen Program. The funds are budgeted in the Recreation Division.

RESOLUTION BOOK NO. 24 - PAGE 51

H. RESOLUTION NO. 97-52 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS FOR DISPOSAL PARCEL 5 AT THE CORNER OF COURTLAND AND MONTFORD IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

Summary: Disposal Parcel 5 is zoned R4 Residential and is located on Montford Avenue at the corner of Courtland Avenue. It comprises 8,712 square feet of land along with improvements consisting of a small bungalow and a small commercial type structure previously Miller Cab Co. The Fair Reuse Value for both parcels is $39,000.00. The proposed use for the property in the Head of Montford Redevelopment Plan is for office use compatible with the zoning.

Robert A. Eidus has submitted a bid to purchase Disposal Parcel 5 in the amount of $39,100.00. The bid is contingent upon the City financing 90% of the purchase price for a period of one year at 7% interest. The proposal includes a plan to renovate the buildings for office space along with landscaping at an anticipated development cost of $19,850.00. The renovated structures will be occupied by an Internet server and a portion of the offices of the North Carolina Ginseng and Goldenseal Company, a medicinal organic herbs and roots marketer which is owned and operated by Mr. Eidus.

The Montford Neighborhood Advisory Committee has expressed support for the project.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

RESOLUTION BOOK NO. 24 - PAGE 52

I. RESOLUTION NO. 97-53 - RESOLUTION CONFIRMING APPOINTMENTS TO THE CITY BUSINESS AND DEVELOPMENT COMMISSION

Summary: This resolution will confirm the appointment of Mr. Lafayette Mims, to represent the Minority Business Alliance, on the City

Business and Development Commission. Mr. Mim's term will be a three year term, term to expire October 1, 1999.

This resolution will also confirm the appointment of Ms. Lisa Smith, to represent the Tourism Development Authority, on the City Business and Development Commission. Ms. Smith's term will be a two year term, term to expire October 1, 1998.

RESOLUTION BOOK NO. 24 - PAGE 53

J. **RESOLUTION NO. 97-54 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT DONATIONS OR CONVEYANCES OF REAL PROPERTY FOR GREENWAYS**

Summary: This resolution would authorize the Mayor to accept donations of real property for greenways or greenway systems.

The City of Asheville is interested in establishing greenways or greenway systems throughout the corporate limits of the City of Asheville. Property owners may offer to donate or convey to the City of Asheville real property or easements over real property so that the property may be used for the greenway systems. It is necessary to establish a process for acceptance of these donations or conveyances.

RESOLUTION BOOK NO. 24 - PAGE 54

K. **RESOLUTION NO. 97-55 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR THE LAKE CRAIG PROPERTY PROJECT**

Summary: The Parks and Recreation Department requests City Council approval of an agreement between the City of Asheville, County of Buncombe, RiverLink, Western North Carolina Soccer Foundation, and Friends of the Western North Carolina Nature Center to jointly develop the "Lake Craig Property" for recreation and educational use.

The Asheville City Council authorized the Parks and Recreation Department to participate as a member of the Lake Craig Task Force in September, 1995. Over the past 1 1/2 years, members of the Parks and Recreation Department, Buncombe County, RiverLink, Western North Carolina Soccer Foundation, and Friends of the Western North Carolina Nature Center have been meeting to discuss the feasibility of purchasing and developing "Lake Craig Property" for recreation and educational use. During this period of time, an agreement has been reviewed by all parties in regard to each party's commitment to making this project a reality. The agreement outlines each party's responsibilities, noting that the City will purchase the property and the WNC Soccer Foundation will raise the necessary funds to build and maintain the project. It is the intent of the Task Force to have this agreement signed and completed within the next month in order to proceed with the next step of the project.

RESOLUTION BOOK NO. 24 - PAGE 55

L. **RESOLUTION NO. 97-56 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS FOR DISPOSAL PARCEL 10.2 ON CARROLL AVENUE IN THE EAST END/VALLEY STREET PROJECT**

Summary: Disposal Parcel 10.2 is a residential lot near the corner of Martin Luther King Jr. Drive and Carroll Avenue comprising 10,498 square feet. The bid from Alvin and Lavonda Searles for Disposal Parcel 10.2 includes the proposal to

construct a single-family home on the property at a estimated cost of $89,220.00. The home proposed will contain 4 bedrooms and 2 baths. The bidder, if successful, will be eligible for the Incentive Housing Program Lot Purchase Subsidy.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N.C. Gen. Stat. sec. 160A-269.

RESOLUTION BOOK NO. 24 - PAGE 56

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCE

A. ORDINANCE NO. 2354 - ORDINANCE AMENDING THE CITY BUSINESS AND DEVELOPMENT COMMISSION TO ADD REPRESENTATION FROM THE MINORITY BUSINESS ALLIANCE AND THE TOURISM DEVELOPMENT AUTHORITY

Summary: City Council has decided to amend Ordinance No. 2309 by expanding the City Business & Development Commission to include a member to be represented by the Minority Business Alliance and the Tourism Development Authority.

ORDINANCE BOOK NO. 16 - PAGE 169

B. ORDINANCE NO. 2355 - BUDGET AMENDMENT TO APPROPRIATE FUNDS RECEIVED FROM SALE OF A SEWER EASEMENT TO CONTINUE IMPROVEMENTS AT RAY KISIAH PARK

Summary: This budget amendment, in the amount of $10,500, is to appropriate funds received from sale of a sewer easement to continue improvements at Ray Kisiah Park.

ORDINANCE BOOK NO. 16 - PAGE 171

C. ORDINANCE NO. 2356 - BUDGET AMENDMENT FOR THE 1997 BELE CHERE FESTIVAL

Summary: This budget amendment, in the amount of $433,200, is for the 1997 Bele Chere Festival.

ORDINANCE BOOK NO. 16 - PAGE 173

D. ORDINANCE NO. 2357 - BUDGET AMENDMENT TO APPROPRIATE ADDITIONAL FAIR HOUSING ASSISTANCE PROGRAM FUNDS FOR THE TENTH YEAR

Summary: This budget amendment, in the amount of $15,000, is to appropriate additional Fair Housing Assistance Program grant funds for the tenth year.

ORDINANCE BOOK NO. 16 - PAGE 177

E. ORDINANCE NO. 2358 - BUDGET AMENDMENT FOR THE 1997 SUMMER YOUTH PROGRAM

Summary: This budget amendment, in the amount of $100,000, is for the 1997 Summer Youth Program.

ORDINANCE BOOK NO. 16 - PAGE 179

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Skalski.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING A PORTION OF 2169 HENDERSONVILLE ROAD FROM R-2 LOW DENSITY RESIDENTIAL DISTRICT TO HI HEAVY INDUSTRIAL DISTRICT

ORDINANCE NO. 2359 - ORDINANCE TO REZONE A PORTION OF 2169 HENDERSONVILLE ROAD FROM R-2 LOW DENSITY RESIDENTIAL DISTRICT TO HI HEAVY INDUSTRIAL DISTRICT

Mayor Martin opened the public hearing at 5:11 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Erin McLoughlin, Urban Planner, said that Volvo Construction requests that .86 acres (which is a portion of PIN No. 9644-08-89-7046) be rezoned from R-2 Low Density Residential HI Heavy Industrial.

The parcel is contiguous with the existing Volvo plant which is currently zoned HI. The 2010 plans shows this area as a transition area, being on the edge of three different zones: heavy industrial, parks and open space, and low density residential. The area is served by a 6" water line and an 18" sewer line. Access is from Hendersonville Road.

Staff has received no comments in opposition to this rezoning request.

The City Planning and Development staff recommends approval of the rezoning request.

At their April 2, 1997, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the rezoning request.

Mayor Martin closed the public hearing at 5:14 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Skalski moved for the adoption of Ordinance No. 2359. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2359 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 181

B. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE RELATIVE TO THE LOCATION AND INSTALLATION STANDARDS OF TELECOMMUNICATIONS TOWERS

ORDINANCE NO. 2360 - ORDINANCE TO AMEND THE ZONING ORDINANCE RELATIVE TO THE LOCATION AND INSTALLATION STANDARDS OF TELECOMMUNICATIONS TOWERS

Mayor Martin said that this public hearing was rescheduled from March 25, 1997. He then opened the public hearing at 5:15 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning & Development Director, said that the proposed wording amendment clarifies certain standards established for the location of telecommunications towers by the existing ordinance and prohibits the location of telecommunications towers within the viewshed of the Blue Ridge Parkway.

The Asheville Planning and Zoning Commission is recommending approval of an amendment to the Zoning Ordinance regarding telecommunications towers. The proposed amendment clarifies the conditions established by the existing ordinance for the location of telecommunications towers and prohibits towers in the viewshed of the Blue Ridge Parkway. The amendment proposes the following changes to the current ordinance:

- Amends the definition of telecommunications towers to exempt structures less than 40 feet in height erected incidental to a commercial operation;

- Clearly states that the setbacks that apply to the location of a tower are those set forth in the district in which the tower is proposed to be located;

- Prohibits the location of telecommunications towers within one-half mile of the Blue Ridge Parkway unless the tower is not visible and/or discernible as a telecommunications tower from the Parkway roadway;

- Prohibits the location of telecommunications towers in areas defined by the U.S. Department of the Interior to be "viewsheds of superior quality";

- Deletes a condition in the current ordinance to truly provide an incentive for monopole tower construction; and

- Clarifies that the addition of antennas to existing non-conforming towers is permitted as long as the addition does not add more than ten (10) feet to the non-conforming dimension.

This ordinance also makes the change requested in Sec. 30-7-1 Q.9. by Councilman Worley as follows: "No telecommunications towers shall be erected in areas determined by the Asheville City Council to be "viewsheds of superior quality," taking into consideration the definitions by the United States Department of Interior, Blue Ridge Parkway Office. A map indicating the location of said determined "viewsheds of superior quality" shall be reviewed and adopted by the

Asheville City Council and kept on file in the Planning and Development Department of the City of Asheville."

By use of a map, she identified the area within one-half mile of the Blue Ridge Parkway and the viewsheds of superior quality to allow Council to discern the impact of the proposed amendment. This map would be adopted by reference should the Council adopt the proposed amendments.

The proposed ordinance amendment has been recommended for approval by the Asheville Planning and Zoning Commission by a 5-2 vote. The staff of the Planning and Development Department recommends approval of the amendment.

Upon inquiry of Councilman Skalski about the two Planning & Zoning Commission members voting against this amendment, Ms. Cogburn felt that they basically did not feel an ordinance protecting the viewsheds of the Blue Ridge Parkway was an appropriate matter for the City to be handling.

Councilman Skalski asked if there was any provision for the City to remove a tower that has been inactive for over 180 days. City Attorney Oast felt that the zoning ordinance in general contains provisions for injunctive relief in appropriate circumstances. Ms. Cogburn also responded by saying that there are several different types of remedies (i.e., fines) that can be pursued under our general zoning ordinance enforcement provisions.

Councilman Cloninger was excited about working with Blue Ridge Parkway in protecting the viewshed. He also noted that Asheville will be the first City along the Blue Ridge Parkway to pass this sort of protection for the viewshed and he hoped others will follow our lead.

Upon inquiry of Councilman Cloninger about adoption of the map determining the "viewsheds of superior quality," Ms. Cogburn felt that Council could adopt a particular map by reference and then staff could bring any changes to the map that the Blue Ridge Parkway might recommend to Council at appropriate future dates. City Attorney Oast recommended that since adopting these regulations to apply within that viewshed will have the effect of restricting the available use of the property within that area, he recommended action on adoption of the map be done at a separate meeting. He said that since we do have certain advertising requirements that need to be met, staff can schedule that as soon as possible. It was the consensus of Council to schedule the public hearing at the May 13, 1997, meeting, if appropriate.

Councilman Cloninger felt that the no. 15 in the draft ordinance which reads "monopole-type telecommunications towers are encouraged and shall receive a reduction in setback distances of up to 50% of the setback requirement stated in subsection 4. above" be deleted. He felt it would be better to be addressed at a later date when staff brings back recommendations relative to BellSouth Mobility's suggested revisions to the telecommunications ordinance.

Upon inquiry of Councilman Cloninger about the City's authority to remove a tower, Ms. Cogburn said that a lot of cities have a provision that if the company goes out of business, someone still owns the property and the lien is placed against the property itself. City Attorney Oast, however, felt that we already have that ability through requesting injunctive relief which is the same way we enforce all of our zoning regulations. He did note, however, that it may be possible to include a specific provision to that effect in this ordinance.

Councilman Cloninger asked staff to review those provisions and, if feasible, bring a suggested amendment back to Council for their consideration.

Mr. Clay Dover, representing BellSouth Mobility, asked that Council allow towers to be erected in "viewsheds of superior quality" with the use of stealth technology.

Councilman Worley stated that staff will be bringing back to Council some recommendations on further amendments to the ordinance to reflect the stealth technology.

Mayor Martin closed the public hearing at 5:36 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2360, subject to the deletion of no. 15 noted above, and subject to the language in the existing ordinance regarding setbacks remain the same. This motion was seconded by Councilman Sellers.

On a roll call vote of 7-0, Ordinance No. 2360 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 183

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

VI. OTHER BUSINESS:

A. HOUSING PROGRAMS

Mayor Martin said that the Housing Authority of the City of Asheville does a very good job. He read the following letter dated April 17, 1997, from Charles T. Ferebee, Director of Community Planning & Development Division of the U.S. Dept. of Housing and Urban Development:

"Congratulations! We are pleased to inform you that the City of Asheville's program has been recognized as one having a Best Practice in the area of Decent Housing from a comprehensive analysis of all of the communities and organizations that receive funding from HUD's Office of Community Planning and Development (CPD).

The analysis involved several categories, including Continuum of Care, Economic Opportunity, Decent Housing, Suitable Living Environment, Program Requirements, Consolidated Planning and IDIS/Reporting. We were particularly pleased with your achievements in operating housing activities in four counties and seven municipalities, in using several nonprofit providers, in using various methods for providing housing and in being skillful in leveraging funds.

Our Headquarter's office will be producing a succinct, attractive fact sheet on your Best Practice, which may be distributed as a model nationwide and posted on HUD's Web Page with appropriate links to your state and community. You will also receive a hard copy, which you may reproduce and share with your colleagues and other organizations that might benefit from your experience. In addition, as a Best Practice you

may be asked to guide other local practitioners attempting to achieve a similar result.

We congratulate you and thank you for your efforts and successes in working to serve the needs of low income residents in your community."

B. COUNCIL OF INDEPENDENT BUSINESS OWNERS RESOLUTION

Mr. Bob Selby, President of the Council of Independent Business Owners, read the following resolution:

"WHEREAS, the Council of Independent Business Owners believes that a vibrant and healthy commercial tax base is critical to the financial health of the City of Asheville because homeowners cannot pay the entire bill themselves; and

WHEREAS, CIBO believes that adequate multi-family housing in the City of Asheville is critical to providing affordable housing for those who cannot afford homes; and

WHEREAS, CIBO believes that a fundamental premise of freedom in America is that we live by laws and not the whims of men, and, thereby, our citizens can know with certainty what can and cannot be done in advance; and

WHEREAS, recent developments in the shaping of the UDO and the treatment of development projects have raised serious concerns about the commitment to the Rule of Law in our community; and

WHEREAS, we are advised that both the Planning Director and the City Attorney announced that the Barnard Avenue project had met all of the City's published rules and yet the development was turned down; and

WHEREAS, the Council of Independent Business Owners believes that the application of development standards that cannot be predicted in advance is extremely detrimental to the development of a healthy commercial property tax base in the City of Asheville and that, in the long run, such a pattern and practice of arbitrary and unpredictable development approvals will have a damaging effect upon the economic health of our community;

NOW, THEREFORE, the Council of Independent Business Owners calls upon the City of Asheville, the Council Members of the City of Asheville, and the Members of the Planning and Zoning Commission to fairly and even-handedly apply the written rules, laws and regulations of the City of Asheville in a fashion which allows developers and others to know in advance the rules, laws and regulations under which their developments will be approved and further to publicly announce their adherence to the premise of the Rule of Law in the City of Asheville."

C. COMMENTS BY DAVID GOULD RELATIVE TO BARNARD AVENUE PROJECT

Mr. David Gould, representing the Jackson/Woolsey Neighborhood Association, said that the neighborhood is still looking to build consensus with the University, the Coalition of Asheville Neighborhoods, and the Affordable Housing Coalition and felt that the Citizen-Times article was ill-timed and quite inaccurate, especially when it dealt with the Barnard Avenue project.

D. **UDO SUGGESTED PROCEDURES**

City Attorney Oast reviewed a suggested process for the public hearings regarding the UDO mapping.

E. **CLAIMS**

The following claims were received by the City of Asheville during the week of April 4-10, 1997: Craig Frederich - Ski Company Sports (Police), Charles Gentle (Streets), Virginia Alexander (Water) and Henry D. Smith (Police).

The following claims were received during the week of April 11-17, 1997: Pebble Creek Apartments (Sanitation), Elizabeth A. Wyndelts (Water), Kathryn Field (Streets), Hunter Banks (Water), Renee Harrin (Streets), L.D. Isaacs (Water) and Bess Alexander (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:55 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Wednesday - April 23, 1997 - 5:25 p.m.
Civic Center Banquet Room

Unified Development Ordinance Joint Public Hearing with the Planning & Zoning Commission on Mapping of the Central and East Areas

Present: City Council Members: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson. Absent: None.

Present: Planning & Zoning Commission Members Present: Chairman Roderick Hudgins, Robert M. Swicegood II, Max Haner, Jane Gianvito Mathews and Karl Koon. Absent: James Torpey and William Johnson.

Chairman Hudgins called the Commission's meeting to order. Mr. Gerald Green, Senior Planner, called the roll and declared a quorum.

Mayor Martin called the City Council meeting to order. City Clerk Burleson called the roll and declared a quorum. Mayor Martin noted that City Council's public hearing on the proposed UDO text was continued from April 10 to April 23, 1997, in case it becomes necessary to consider changes to the proposed text.

Ms. Mathews moved to designate Mayor Martin to reside over the meeting. This motion was seconded by Mr. Haner and carried unanimously.

Mayor Martin then stated that the purpose of this public hearing is to receive comments from the public regarding the proposed rezoning and reclassification of land within the City of Asheville in connection with the anticipated adoption of the Unified Development Ordinance. The Asheville City Council and the Asheville Planning and Zoning Commission have taken the unusual step of scheduling a joint meeting for these public hearings in order that members of the public may address their concerns regarding rezoning or reclassification issues to both bodies at the same time. Although we would like to receive all public comment tonight and tomorrow night, and will stay as long as possible to do that, further public comment may be taken at the May 7, 1997, meeting of the Planning and Zoning Commission and at the May 27, 1997, meeting of the City Council, which will be continued sessions of this meeting. We want everyone who wants to speak to have a chance to do so.

As noted, the purpose of this meeting is to receive public comments on the proposed rezoning and reclassification of land within the City. We will not act to adopt any part of the proposals until both the Planning and Zoning Commission and City Council have had further opportunity independently to consider and discuss the proposals in light of the public input that we receive. The Planning and Zoning Commission will continue its public hearing until Wednesday, May 7, 1997, at 5:00 p.m. at which time it may take action on a recommendation to City Council regarding the proposed rezoning and reclassification. The City Council will continue its public hearing until Tuesday, May 27, 1997, at which time it is anticipated that the recommendations of the Planning and Zoning Commission on the proposed rezoning and reclassification will be before the City Council for action.

Mayor Martin said presentations by the public shall be limited to no more than 10 minutes for the main spokesperson for a group and no

more than three minutes for other individuals. Additional information may be conveyed to the City Council in written form.

Mayor Martin opened the public hearing at 5:30 p.m.

Mr. Paul Benson, Urban Planner, said that for over one and half-years the Planning staff has been working on the UDO mapping, consisting of 34,300 properties and over 31,000 acres. He reviewed the comparisons of the zoning districts - current and UDO. He then reviewed the overlay districts, which districts supplement or replace the basic zoning district requirements. He outlined the 2010 Plan's general land use goals. He explained the mapping strategy used by Planning staff, which was to (1) follow the land use recommendations of the 2010 Comprehensive Plan which was adopted in 1987 and amended in 1989, 1992, 1993 and 1996; (2) match zoning to existing development; (3) convert existing zoning to a corresponding district in the UDO; (4) rationalize zoning boundaries; and (5) avoid creation of nonconformities. He reviewed a chart of comparison of zoning by land use type which revealed (1) a slight declines (1-2%) in Industrial, Commercial and Office/Institutional zoning; and (2) a significant reversal in ratio of single/multi-family zoning.

By the use of maps and overheads, he reviewed the staff proposal for the UDO zoning in the Central Area and outlined how staff used the 2010 Plan goals in mapping the area, also taking into account the numerous comments from the community. The 2010 Plan goals for the Central area are as follows: (1) expanded Urban Center and/or creation of Urban Fringe; (2) medium density residential development in the East End Redevelopment Area; (3) medium density residential development adjacent to Aston Park; (4) low density development on steep hillsides of Beaucatcher Mountain; (5) low density residential development in Kenilworth and Kenilworth Forest areas; (6) expanded medical community surrounded by medium density residential development; (7) medium density residential development adjacent to expanded A-B Tech campus around Walton Street Park; (8) high density residential development throughout Urban Center; (9) medium to high density residential development in West End area; and (10) neighborhood trading in West End area. He then reviewed a chart of the Central area zoning changes which revealed (1) single family zones added; (2) slight increases in Industrial and Office/Industrial; and (3) significant reductions in Commercial and Multi-Family.

At this point Mayor Martin opened up the floor for public comments. Everyone who spoke briefed Council on why the zoning should be changed to their requested zoning. The requests were as follows:

Mr. Fred Martin, President of the Kenilworth Forest Community Club, requested Kenilworth Forest be change from RS-8 to RS-4.

Ms. Lu Heetderks, 69 Park Avenue North, requested all property in the West End/Clingman Avenue area not currently occupied by an active business be zoned residential. This includes property along Roberts Streets, along both sides of Haywood/Clingman Avenue from the West Asheville bridge up to Hilliard Avenue, and the property along Hilliard Avenue, Knoxville Place and West Haywood Street up to Patton Avenue. She asked that the property at 100 Park Avenue North be restored to its original zoning of residential. She presented to City Council a petition containing 123 signatures supporting the request. Additionally, she requested that the lot (which they own) and which is adjacent to their house and that is our driveway (PIN No. 9638-08-98-7068) be zoned residential, not CI.

Ms. Donna Anderson, Chair of the Administrative Council of the Haywood Street United Methodist Church, asked that (1) the property which used to be the location of a supportive community institution (Queen Carson School) be zoned residential; and (2) all lands on both sides of Robert Street and on the west side of Clingman Avenue that are not currently in active commercial use, be zoned for an appropriate residential use. She presented City Council with a letter supporting the residents of the West End/Clingman Avenue community.

Ms. Jennifer Scovill, 23 Congress Street, requested her property be zoned to an office classification, not RS-8.

Mr. Herb Marsh, 84 Oakland Road, did not want their bed and breakfast inn to be a nonconforming activity in the RS-8 area. He asked that they be an allowed use in RS-8.

Mr. William Young, Vice-President of East End/Valley Street community, requested that their area be zoned RS-8.

Mr. Bill Bass, representing Dr. & Mrs. Killian, requested that specific property in the Charlotte Street area be changed from CBI to CBII and RM-8 to RM-16. He presented Council with a brochure regarding the overview of Charlotte Street.

Mr. Scott Dedman, Executive Director of Mountain Housing Opportunities, presented Council with the map from the 2010 Asheville City Plan regarding the future land use in the West End/Clingman Avenue area. Said map showed non-residential areas of concern where proposed UDO zoning would allow commercial/industrial uses not compatible with the 2010 Plan and non-residential areas of concern which should be zoned compatible with the residential neighborhood. He urged Council to zone the areas compatible with the residential neighborhood.

Mr. Jim Siemens, attorney speaking on behalf of the Jackson Park/Woolsey Neighborhood Association, requested Council to zone an area within the neighborhood from RM-8 to some lower density zoning.

Mr. Craig Justus, attorney representing the Hildebrands, presented Council with a letter dated April 13, 1997, from the Morningside Baptist Church Trustees which supported the changing of the zoning of the Hildebrand property (which joins their property) from RM-16 to Office Business District. He requested Council zone the Hildebrand properties off of Tunnel Road to Office Business, not RM-16.

Mr. Freddie Mitchell requested that property on Clingman Avenue be zoned commercial.

Ms. Beth Maczka offered Council suggestions for further analysis in order to help Council with their decisions before the UDO is adopted. There was discussion between Mr. Benson and Ms. Maczka regarding the chart of multi-family/single-family zoning analysis. She stated concerns that renters (who will be directly impacted) did not receive direct notice of these public hearings.

At 7:15 p.m., Mayor Martin announced a ten minute break.

By the use of maps and overheads, he reviewed the staff proposal for the UDO zoning in the East Area and outlined how staff used the 2010 Plan goals in mapping the area, also taking into account the numerous comments from the community. The 2010 Plan goals for the East area are as follows: (1) low density residential development in environmentally sensitive areas; (2) medium density residential development in areas

with services and access; (3) reserved open space on fill area at US 70/I-240; (4) commercial business center at intersection of US 70/Riceville Road; (5) medium density residential development adjacent to Lake Craig Park; (6) light industrial development in vicinity of Gashes Creek; (7) commercial business center expansion at River Ridge; (8) low density development in hillside areas; (9) Blue Ridge Parkway Regional Information Center; and (10) low density residential development adjacent to Blue Ridge Parkway. He then reviewed a chart of the East area zoning changes which revealed (1) 60% increase in single family; (2) 50% decrease in multi-family; (3) slight gain in industrial; and (4) slight decrease in commercial.

At this point Mayor Martin opened up the floor for public comments. Everyone who spoke briefed Council on why the zoning should be changed to their requested zoning. The requests were as follows:

Mr. Henry Mitchell, President of the Oakley Neighborhood Association, requested (1) Oakley be zoned single-family residential which comprises approximately 90% of their current use and (2) a maximum density which reflects their current density. He requested more zoning be changed from RS-8 to RS-4 in the Oakley neighborhood.

Mr. Derwin Williams spoke in opposition of RS-8 density in several parts of Oakley and asked that they be changed to RS-4.

Mr. Barber Melton, Vice-President of the Haw Creek Community Association, requested staff revisit the Community Business zone at the intersection of Miller Road, Beverly Road and the New Haw Creek Road. They don't have a problem with that intersection being zoned Neighborhood Business.

Ms. Susan Andrew, Kenilworth resident, requested that a section in Kenilworth (roughly Beaucatcher Road to the east and north, Aurora to the west and south, and Kenilworth Road completes the circle) be changed from the proposed RM-6 to RS-4. She stated that a petition will be forthcoming to City Council requesting this change.

Mr. Paul Reynolds, Treasurer of the Oakley Neighborhood Association, requested Oakley be zoned from RS-8 to RS-4.

Ms. Jane Hildebrand, resident of Chunns Cove, asked that her property off of Tunnel Road be zoned Office Business.

Ms. Nancy Williams, Oakley Neighborhood Association, requested Oakley be zoned from RS-8 to RS-4.

Mr. Jack Benatan, resident on Broadview Drive, requested Oakley be zoned from RS-8 to RS-4.

Ms. Jean Penland, resident on Utopia Road, requested Utopia Road be zoned RS-2, not RM-6.

Mr. Bill Kelder, resident in the Oakley community, requested Oakley be zoned from RS-8 to RS-4.

Mr. Jim Barrett, 270 Cumberland Avenue, stated that this UDO process appears to be making the City not visionary, but reactionary. He felt the UDO makes it very difficult to scatter affordable housing throughout the City.

Mr. Paul Salks encouraged City Council to first increase the capacity of the City limits through the annexation process before considering a high density zoning.

Ms. Dorothy M. Olson, 968 Tunnel Road, presented Council with a letter dated April 23, 1997. She requested her property not be zoned residential, but be included in the commercial corridor of Tunnel Road.

Mr. Dan Zorn, Haw Creek resident, presented a petition to the Planning & Zoning Commission. He requested that the Arco Road area be zoned RS-4 over to new Haw Creek Road.

Ms. Kristin Garner-Zorn, Haw Creek resident, requested that the Arco Road area be zoned RS-4 over to new Haw Creek Road.

Upon inquiry of Ms. Thelma Hughes, Parkway Forest resident, about how the UDO would affect subdivision restrictions, City Attorney Oast said that no matter what the zoning is, the deed restrictions would control what the property can be used as.

At 8:40 p.m., Mr. Haner moved to recess and continue the Planning & Zoning meeting until Thursday, April 24, 1997, at 5:00 p.m. in the Banquet Room of the Civic Center. This motion was seconded by Ms. Mathews and carried unanimously.

At 8:40 p.m. Councilman Worley moved to recess and continue the City Council meeting until Thursday, April 24, 1997, at 5:00 p.m. in the Banquet Room of the Civic Center. This motion was seconded by Vice-Mayor Field and carried unanimously.

Magdalen Bowerson
CITY CLERK

MAYOR

Wednesday - April 24, 1997 - 5:00 p.m.
Civic Center Banquet Room

Continuation of Unified Development Ordinance Joint Public Hearing with the Planning & Zoning Commission on Mapping of the South, West and North Areas

Present: City Council Members Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson. Absent: None.

Present: Planning & Zoning Commission Members Present: Vice-Chairman Robert M. Swicegood II, Max Haner, Jane Gianvito Mathews, William Johnson and Karl Koon. Absent: Chairman Roderick Hudgins and James Torpey.

Mayor Martin stated that the purpose of this public hearing is to receive comments from the public regarding the proposed rezoning and reclassification of land within the City of Asheville in connection with the anticipated adoption of the Unified Development Ordinance. The Asheville City Council and the Asheville Planning and Zoning Commission have taken the unusual step of scheduling a joint meeting for these public hearings in order that members of the public may address their concerns regarding rezoning or reclassification issues to both bodies at the same time. Although we would like to receive all public comment tonight, and will stay as long as possible to do that, further public comment may be taken at the May 7, 1997, meeting of the Planning and Zoning Commission and at the May 27, 1997, meeting of the City Council, which will be continued sessions of this meeting. We want everyone who wants to speak to have a chance to do so.

As noted, the purpose of this meeting is to receive public comments on the proposed rezoning and reclassification of land within the City. We will not act to adopt any part of the proposals until both the Planning and Zoning Commission and City Council have had further opportunity independently to consider and discuss the proposals in light of the public input that we receive. The Planning and Zoning Commission will continue its public hearing until Wednesday, May 7, 1997, at 5:00 p.m. at which time it may take action on a recommendation to City Council regarding the proposed rezoning and reclassification. The City Council will continue its public hearing until Tuesday, May 27, 1997, at 5:00 p.m. at which time it is anticipated that the recommendations of the Planning and Zoning Commission on the proposed rezoning and reclassification will be before the City Council for action.

Mayor Martin said presentations by the public shall be limited to no more than 10 minutes for the main spokesperson for a group and no more than three minutes for other individuals. Additional information may be conveyed to the City Council in written form.

Mayor Martin opened the public hearing at 5:13 p.m.

Mr. Paul Benson, Urban Planner, said that for over one and half-years the Planning staff has been working on the UDO mapping, consisting of 34,300 properties and over 31,000 acres. He reviewed the comparisons of the zoning districts - current and UDO. He then reviewed the overlay districts, which districts supplement or replace the basic zoning district requirements. He outlined the 2010 Plan's general land use goals. He explained the mapping strategy used by Planning staff, which

was to (1) follow the land use recommendations of the 2010 Comprehensive Plan which was adopted in 1987 and amended in 1989, 1992, 1993 and 1996; (2) match zoning to existing development; (3) convert existing zoning to a corresponding district in the UDO; (4) rationalize zoning boundaries; and (5) avoid creation of nonconformities. He reviewed a chart of comparison of zoning by land use type which revealed (1) a slight declines (1-2%) in Industrial, Commercial and Office/Institutional zoning; and (2) a significant reversal in ratio of single/multi-family zoning.

Mayor Martin said that City Council has come to a consensus that it is not necessary to have commercial development in the Beaverdam Valley area.

By the use of maps and overheads, he reviewed the staff proposal for the UDO zoning in the South Area and outlined how staff used the 2010 Plan goals in mapping the area, also taking into account the numerous comments from the community. The 2010 Plan goals for the South area are as follows: (1) preserve and protection of Biltmore Village Historic District; (2) Sweeten Creek industrial park expansion; (3) medium density residential development adjacent to commercial business center south of Blue Ridge Parkway; and (4) commercial business center between Blue Ridge Parkway and Mills Gap Road. He then reviewed a chart of the South area zoning changes which revealed (1) small gain in industrial; (2) loss of commercial; (3) loss of office/institutional; and (4) reduction in multi-family and gain in single-family residential.

At this point Mayor Martin opened up the floor for public comments. Everyone who spoke briefed Council on why the zoning should be changed to their requested zoning. The requests were as follows:

Mr. Tim Davey, 211 Blake Mountain Circle, requested his property and the newly acquired property (.45 acres) to be zoned RS-2.

Mr. Bill Frue, attorney representing Ingles Markets Inc., requested a 37 acre tract owned by Ingles in West Asheville be zoned to a regional business district making it possible for commercial and residential purposes, not RM-8.

Mr. Roger Chipman, owner of Exotic Pets and owner of two lots where Sweeten Creek Road crosses Royal Pine Drive, requested his property be zoned something more compatible with what is in the area now - like commercial and multi-family.

Mr. Steven Baldash presented Council with pictures in the Cornell Street area next to the South Forest Shopping Center. He requested that his property on Cornell Street be zoned Office District, not RS-8.

Mr. Al Mojannier, representative of the Interfaith Alliance for Justice, was concerned about the substantial reduction of multi-family zoning. Vice-Mayor Field responded that the City receives a certain amount of Community Development Block Grant and HOME consortium money, and through our non-profits we put the majority of it into affordable housing. However, the City can only build, at the most, 100 units a year. The private section has to step in and provide affordable housing over and above that. She felt that any multi-family housing added to our community will add affordable housing.

By the use of maps and overheads, Mr. Benson reviewed the staff proposal for the UDO zoning in the West Area and outlined how staff used the 2010 Plan goals in mapping the area, also taking into account the numerous comments from the community. The 2010 Plan goals for the West

area are as follows: (1) medium density residential development north of Emma and adjacent to industrial area; (2) Steep hillsides along west bank of French Broad River reserved as open space, north of Smoky Park Bridge; (3) strip office/commercial development limited along Patton Avenue; (4) commercial center at intersection of Patton Avenue and Haywood Road; (5) linear greenway park along west bank of French Broad River south of Smoky Park Bridge; (6) medium density residential development across from proposed riverside park; (7) Sand Hill ballfield development; (8) office/institutional distribution center located at Brevard Road - Farmer's Market area; (9) low density residential development between I-40 and Hominy Creek; (10) floodway/open space buffer adjacent to low density residential development in Pond Road area; (11) industrial center adjacent to Hominy Creek and BASF plant; (12) commercial center at intersection of Brevard and Sardis Roads; (13) medium density residential development along Leicester Highway at Spivey Mountain Road (14) low density residential development in areas with poor access and urban services - Gorman Bridge - Dryman Mountain Road area; and (15) commercial center at intersection of Smoky Park Highway and I-40 with medium density residential on outskirts of center. He then reviewed a chart of the West area zoning changes which revealed (1) significant loss in industrial; (2) some loss in commercial; (3) small gain in office/institutional; and (4) significant gain in single family/loss in multi-family.

Mr. Tom Plemmons, resident on Sand Hill Road, responded that his property be zoned light industrial.

Mr. Don Isenhower requested that the property bounded on the north end by Peach Street, on the west side by Appalachian Way and on the southern side by Shadowlawn which is currently zoned RM-8 remain and further requested for the mobile home overlay for possible rental community.

Ms. Lucy Crowell, resident on Pond Road, said that the part of her property that is in the City's jurisdiction (34-1/2 acres) has been light industrial. She requested her property be zoned commercial industrial, not RS-2.

Mr. Roy Chapman, property owner of 87 Riverview Church Road, requested that his small mobile home park and adjoining property be zoned RM-8 with a manufactured home rental community overlay.

Ms. Linda Purcell, Co-President of Malvern Hills Community Club, requested their neighborhood zoning be changed from RS-8 to RS-4.

Mr. David Nash, resident of Crestmont Avenue, requested his zoning remain RM-8 and the City expand those areas throughout the City for more diverse neighborhoods.

Mr. Dennis Campbell, representative of the Falconhurst Neighborhood Association, requested his neighborhood be zoned RS-8, not RM-8.

Mr. George Saenger, attorney representing owners of a 64 acre tract (bordered by Holbrook Road and Crowell Road) at the intersection of I-40 and U.S. 19-23, requested the property remain commercial industrial. He presented Council with a letter dated April 24, 1997, from Mr. Philip G. Carson.

Ms. Kathryn Trueblood, resident on Pond Road, requested her property be zoned commercial industrial, not RS-2.

Ms. Margaret Sexton, Secretary to the Wilshire Park Community Club, stated that Council rezoned their neighborhood recently from R-3 to R-1A and now their area is proposed to be zoned RS-8. She urged Council to keep the 500 square foot spacing requirement for the duplexes, triplexes and quadraplexes. Her neighborhood does not want a 20-40 unit apartment complex built.

Mr. Bob Ledford, representative of residents from new Leicester Highway from CJ's Hair Design to Eliada Home Road, requested that area be zoned commercial or commercial service, not RM-6 and RM-8.

Mr. Jonathan Guest, resident in Falconhurst, requested his neighborhood be zoned RS-8, not RM-8.

Mr. Kelley, representative of 850 area residents and businesses in the area of Pond and Brevard Roads, questioned what could be built in the Commercial Industrial zone (in particular if asphalt plants could be built). Mr. Gerald Green, Senior Planner, said the UDO is not as clear as it could be on the question of the asphalt plant. It is Planning staff's interpretation that asphalt plants will not be permitted in the Commercial Industrial district and staff is proposing a clarification to ensure that there is no question about that.

Mr. Carl Solesbee presented City Council with a petition containing approximately 93 signatures asking that "effective immediately that there be a 2 mile 'buffer zone' outside the extraterritorial jurisdiction of the City of Asheville to offset the building of an asphalt plant, or zoned as Heavy Industrial." City Attorney Oast said that although it is possible for the City in some limited circumstances to extend it's zoning regulations beyond the corporate limits, a two mile buffer zone is not something the City can do under the current circumstances.

Mr. Bruce Moss, owner of approximately 5 acres on new Leicester Highway, requested his property be zoned commercial or commercial service.

Mr. Barry Evans presented a petition containing approximately 850 signatures "to deny the rezoning of property on Pond Rd. from light industrial to heavy industrial, for the purposes of an asphalt plant. We strongly oppose the placement of an asphalt plant within a mile and a half of hundreds of homes and an elementary school, due to environmental, health and safety concerns for our home owners and their children."

At 7:00 p.m., Mayor Martin announced a ten minute break.

Mr. Dick Rice voiced concern regarding the need for affordable housing and also the need for preserving and protecting the taxpayers and property owners of the City. He questioned the percentage of multi-family in the West area. He asked Council consider schools as part of the infrastructure evaluation before granting large developments.

Mr. Tony Sayer presented Council with written comments dated April 24, 1997, from Mr. James A. Barrett, 270 Cumberland Avenue. Said letter, in part, reads "in light of the way the UDO text has turned out: (1) Order a re-mapping of the city that leaves many more multifamily housing zones (and much more multifamily area) throughout the city to allow for the possibility that more neighborhoods may incorporate mixed small multi-family developments and single-family housing.... (2) Order a re-mapping of the city that leaves much more higher density zoning in the central neighborhoods and in areas throughout the city that are

buildable and near amenities.... (3) send a clear message that Asheville is not to become an exclusive community that relegates middle and lower income people to over-crowded and substandard housing or to the county to live in trailer parks; and (4) pass a housing bond issue so that lower income families can be empowered to buy a single family home so they can live in Asheville."

Mr. Tony Sayer, 27 Florida Avenue, requested that his neighborhood remain zoned RM-8 because he was happy to live in a multi-family zone. He was concerned about the statement that somehow the plans that are currently underway will meet all of the rental and affordable housing needs of the City for the next 25 years.

Mr. Earl Cobb, West Asheville resident, requested properties in West Asheville be zoned RS-8, not RM-6, RM-8 and RM-16.

Mr. Brian Peterson, resident on Vance Crescent, questioned why the property in the Vermont Avenue area is to be zoned RS-8 and RM-8 when it is completely filled in with single-family.

Mr. James Beck, West Asheville resident, requested that the 25 acres of property on Deaverview Road (which belongs to Deaverview Properties) and an additional six acres (which belongs to him), be zoned Commercial Industrial, not RM-16. He presented City Council with a letter dated April 24, 1997.

Mr. Lane Reid, resident in Falconhurst, requested his property be zoned RS-8, not RM-8.

Mr. Scott Dedman, representative of the Affordable Housing Coalition, asked questions relating to the multi-family/single family zoning analysis. He felt that the proposed mapping will perpetuate and extend the economic and racial segregation that exists in Asheville. He showed Council a map that compared the most exclusive zoning areas, which would be the RS-2 and RS-4, and the census tracts, which are less than 10% minority. He requested a sophisticated analysis by individuals who know fair housing laws to look at the effect of perpetuating racial and economic segregation in our City through the UDO.

By the use of maps and overheads, Mr. Benson reviewed the staff proposal for the UDO zoning in the North Area and outlined how staff used the 2010 Plan goals in mapping the area, also taking into account the numerous comments from the community. The 2010 Plan goals for the North area are as follows: (1) commercial center at intersection of Merrimon and Beaverdam Roads; (2) strip office/commercial limited along Merrimon Avenue; (3) low density residential development in steep hillside areas; (4) greenway along Weaver Boulevard; (5) medium density residential development bordering UNC-A campus; (6) greenway along west side of Broadway; (7) institutional development along east side of Broadway; (8) preservation and protection of Montford Historic District; (9) commercial/office development along Charlotte Street from I-240 to Edwin Place and residential north of Edwin; (10) neighborhood trading center at Head of Montford; (11) phasing out industry/warehousing on east bank of French Broad River, north of the Smoky Park Bridge; (12) medium density residential development in the Hill Street area; (13) medium to high density residential development in the Chestnut-Liberty area and the Head of Montford; and (13) neighborhood trading centers in the Chestnut-Liberty area and the Head of Montford. He then reviewed a chart of the North area zoning changes which revealed (1) industrial unchanged; (2) small gain in commercial; (3) loss in Office/Institutional; and (4) loss in multi-family and corresponding gain in single-family.

Ms. Pam Turner, Chairman of the Board of Trustees for UNC-A, voiced concern that the boundaries of the institutional zone intended for the campus have been drawn too tightly, in particular the proposed shrinking of the present zoning boundary near the southeast corner of the campus tract. At present Vivian/Nantahala Streets (actually one street), form a boundary line for the campus existing office institutional zone. The UDO map proposes to draw the new institutional boundary line perhaps 100 feet, or so, to the west of Vivian/Nantahala. They request the street be restored as the boundary line. She also voiced concern that the proposed new zoning of the established residential areas to the south and east of the campus does not allow adequately for private sector development of appropriate housing options to meet the need of the University community. They requested RM-16 in a wider area.

Mr. John Quigley, President of the Jackson Park/Woolsey Neighborhood Association, presented City Council with a petition containing approximately 250 signatures, requesting their neighborhood be zoned RS-4, with exceptions noted on a map attached to the petition.

Ms. Betty Robinson, North Asheville resident, voiced concern about the proposed UDO dropping many current parking requirements. She also voiced concern about speculative grading requirements not required in commercial areas.

Ms. Mary Jo Brezny, Montford resident, expressed concern regarding the parking requirements in the UDO. She was concerned that a small area on Hill Street which was being zoned commercial has been increased to go up to the school property boundary on Montford Avenue.

Mr. Ron Dame, 171 Edgewood Road, requested his neighborhood be zoned something less than RM-8 and RS-8.

A man from the Edgewood Road area requested Council take into account health, safety and welfare issues and the proper density in neighborhoods that are very old with very narrow streets that cannot support, in many cases, the current traffic.

Ms. Glenda Burgin, 599 Old Toll Road, requested that the 3-acre vacant lot across the street from the Grove Park Inn not be zoned Resort.

Mr. Dennis King, resident on Old Toll Road, requested that the 3-acre vacant lot across the street from the Grove Park Inn not be zoned Resort.

Mr. Arnold Green, resident on Country Club Road, requested the Grove Park Inn golf course not be zoned Resort, but remain residential.

Ms. Dee Murphy, Barnard Avenue resident, said that a resident at 1 Sevier Street, was concerned about a commercial development in front of her home. Ms. Murphy then read a letter from her neighbor David Page, 12 Laurel Avenue, which opposed a zoning plan which allowed the University Place complex to be shoe-horned into a neighborhood whose infrastructure is already built out. Ms. Murphy then voiced concern on the thresholds in order to trigger public hearings.

Ms. Kathy Burd, 4 Salem Avenue, requested her neighborhood be changed from RS-8 to RS-4 and RM-8 to RS-8.

Ms. Mary Anne Cramer, resident on Lee Avenue, requested her neighborhood remain single-family.

Mr. Dennis Martin requested his property at 55 Broad Street and the two vacant lots at the intersection of Crescent and Broad be zoned office or office business, not RM-8.

Mr. Mark McDermott said that he was at the homeless shelter earlier today and they have roughly 60 people there. He believed that is where some of the people that need affordable housing are tonight.

Ms. Laura Whitley, resident on Edgewood Road, requested the Edgewood/Barnard/Maney areas be zoned RS-4, not RM-8, and asked Council to revisit the thresholds for public comment.

Ms. Leni Sitnick said that the institutional zoning along the east side of Broadway needs to be done with care and future thought. She felt people will find a way to appeal as development occurs, whether it's permitted by public hearing in the UDO or not. She was glad that Council will review the ordinance in six months and one year. She hoped Council will at some point consider participation fees for infrastructure. She hoped that asphalt plants and other poison-spewing industries are not allowed in any areas where there are people. Since enforcement is a major part, she hoped the City had adequate staff and funding. She also hoped that variances are granted only on a hardship basis.

Ms. Nora Bradsher, 125 Furman Avenue and Secretary of the Charlotte Street Neighbors Association, requested Charlotte Street, from I-240 to Chestnut Street, be zoned CBI, not CBII. She asked that the Charlotte Street Small Area Plan Advisory Committee be allowed to complete their plan and then use this document to create a transition overlay. She said that she had a petition from 12 of her neighbors who agreed that this area should be zoned CBI.

Ms. Mary Parker, 95 Charlotte Street, said that the Charlotte Street Small Area Plan Advisory Committee generally approved the Planning staff's recommendations for that area with the exception of the property where the Ingles building burnt.

At 8:55 p.m., Mayor Martin announced a ten minute break.

Upon inquiry of Ms. Tammy Bradley, Mayor Martin explained that this a public hearing for City Council and the Planning & Zoning Commission to listen to comments from the community only.

Mr. Tom Muncy, 33 Maney Avenue, requested that the Chatham Road/ Fenner Avenue area be zoned RS-4, not RS-8.

Ms. Janet Hart, 60 Baird Street and Charlotte Street Neighbor Association President, requested that the area between Arlington and Town Mountain Road should be zoned RS-8; the properties on east Arlington toward Town Mountain Road should remain RS-8; the properties on East Chestnut Street between Furman and Charlotte Street should be zoned RM-8, not RM-16; Albemarle Road to Albemarle Park should be zoned RM-8; and Albemarle Place through the Von Ruck area should be zoned RS-4, not RM-8.

Mr. David Gould, member of the Neighborhood Association bordering UNC-A, requested the Edgewood Road area now zoned RM-8 to the north and south of Edgewood and Barnard be zoned RS-4 or RM-6.

Ms. Pauline Kaltsunis, representative of 853 Merrimon Avenue and 29 Johnson Drive, requested that 29 Johnson Drive (now zoned CBII) and the small strip behind 29 Johnson Drive (now zoned RM-8) be both zoned CBII.

Mr. Dennis Campbell, speaking on behalf of his mother-in-law who lives on Sevier Street, stated that the multi-family narrow strip that goes along Barnard Avenue and Sevier Street is totally unacceptable.

Mr. Andrew Hart, 60 Baird Street, requested that the lot where Ingles burnt be zoned CBI, not CBII.

Ms. Peggy DeBell, 131 Arlington Street, was glad that her property was zoned RS-4 and requested that the lot where Ingles burnt be zoned CBI with a transition overlay for the entire Charlotte Street area, not CBII.

Mr. David Whitley, 210 Edgewood Road, suggested meeting with the Planning staff to come up with a more adequate zoning of his area which would be something less dense than RM-8.

Ms. Margaret Mull asked that her 3 pieces of property on Merrimon Avenue that are currently zoned differently (even though they are connected) be zoned the same designation. She also asked about parking requirements.

By the use of the overhead projector, Mr. Scott Dedman, property owner at the corner of Cumberland and Flint Street, showed Council areas with the same density being zoned differently.

At 9:35 p.m., Mr. Haner moved to recess this meeting of the Planning & Zoning Commission and continue it until Monday, May 5, 1997, at 5:00 p.m. in the large conference room on the Fifth Floor of the City Building for another worksession of the Planning & Zoning Commission on the proposed zoning district maps for the UDO, during which time only written comments will be accepted on the proposed maps and after which the meeting shall be further continued to Wednesday, May 7, 1997, at 5:00 p.m. in the Banquet Room of the Civic Center for continuation of this public hearing of the Planning & Zoning Commission. Comments at the May 7, 1997, meeting should be limited to new and original thoughts that have not been previously discussed and we will receive those at that time. This motion was seconded by Mr. Johnson and carried unanimously.

Mr. Swicegood noted that since the May 7, 1997, meeting is a regular meeting of the Planning & Zoning Commission, the public hearing portion will be handled under "Other Business" at the conclusion of the Planning & Zoning Commission meeting.

At 9:35 p.m., Councilman Hay moved to recess and continue this meeting of the City Council until Tuesday, May 27, 1997, at 5:00 p.m. in the Banquet Room of the Civic Center. This motion was seconded by Councilman Sellers and carried unanimously.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - May 6, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

SUMMER YOUTH SERVICE GRANT APPLICATION

Summary: The consideration of a grant application through the N. C. Dept. of Environment, Health and Natural Resources to provide food service in the Summer Day Camp and Playground Programs.

Funds are available through the N. C. Dept. of Environment, Health and Natural Resources, Division of Maternal and Child Health, Child and Adult Care Food Program to provide breakfast, lunch, and snacks.

The Summer Day Camp Program will provide supervised licensed child care, recreation, enrichment activities, and food service for children in kindergarten through 5th grade, June 9 through August 8, 1997, Monday through Friday, 7:30 am to 6 pm. The cost of the program is $65 per week for city residents, $75 per week for non-city residents. Sites will be located at Claxton, Hall Fletcher, Jones, Randolph, and Vance Elementary Schools; and Reid Recreation Center. Breakfast, lunch and snacks will be provided daily at no extra cost. The number of meals and amount of reimbursement will vary based on the total meals actually served each month.

The Summer Playground Program will provide supervised recreation activities for children ages 6 to 12, June 16 through August 7, Monday through Friday, 10:30 am to 5:30 pm. Free of charge with a one time $10 activity fee. Sites will be located at Shiloh, East Asheville, Murphy-Oakley and Burton St. Community Centers; Martin Luther King, Weaver and Walton St. Parks; and Woodridge Apts., Mountainside Apts., Pisgah View Apts., and Klondyke Homes. Lunch will be provided daily with no extra cost. The number of meals and the amount of reimbursement will vary based on the total meals actually served each month.

The Parks and Recreation Department recommends the City of Asheville apply for the Summer Food Service Program for Children through the North Carolina Department of Environment, Health and Natural Resources.

AUDIT CONTRACT

Summary: N. C. Gen. Stat. sec. 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

In 1993 the local audit firm of Crisp Hughes & Co., L.L.P., won the bid for the City's audit with the option, dependent upon the quality of service, to be re-engaged annually for a period of three to five years. They performed the FY '93, FY '94, FY '95 and FY '96 audits and have now submitted an engagement letter for the FY '97 audit. The FY '97 audit fee has been estimated at, and limited to, $52,000. Funds are appropriated in the budget of the Accounting Division of the Finance Department. The fee includes an audit in accordance with generally accepted auditing standards which includes an assessment of the City's internal control procedures, testing for compliance with N. C. Gen. Statutes, testing for compliance with pronouncements of the Governmental

Accounting Standards Board, Standards for Audit of Governmental Organizations, Programs, Activities and Functions, the Guidelines for Financial and Compliance Audits of Federally Assisted Programs and the Federal Office of Management and Budget's Compliance Supplement for Single Audits of State and Local Governments.

Staff recommends adoption of the ordinance and re-appointment of the audit firm Crisp Hughes & Co., L.L.P.

BUDGET AMENDMENT RE: PURCHASE OF EQUIPMENT FOR POLICE DEPARTMENT

Summary: The consideration of a budget amendment to allocate funds to the Police Department for purchase of equipment funded under the U. S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance local law enforcement block grants program.

The City, through the Police Department, has applied for and has been awarded a federal grant in the amount of $116,231.00 for an equipment purchase project allowed under Bureau of Justice Assistance guidelines. As a condition of the grant award, the City agreed by resolution on July 23, 1996, to appropriate a local matching contribution of $12,915.00 bringing project funding to a total of $135,146.00, which includes interest gained while the federal amount remains in a trust fund established by the City. The purpose of the project is to purchase equipment items to be used by the Police Department. Specific equipment items to be purchased will be determined through a process involving the department's formation of an advisory board and a public hearing which will be scheduled at a later time.

Staff recommends adoption of the budget amendment to appropriate funds to the Police Department for purchase of equipment funded under the U. S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance local law enforcement block grants program.

AMENDMENT TO WATER AUTHORITY CAPITAL PROJECT ORDINANCE

Summary: Amendment of Capital Project Ordinance 82-25 (35 Fund) to provide funding for: the North Conference Room renovation and to decrease the contingency; and the Bee Tree Dam Renovations, the Department of Transportation's Biltmore Viaduct Project, and the Reservoirs/Tunnel Repairs Project.

The consideration of an ordinance amending Capital Project Ordinance 82-25 to reflect funding for four (4) water related projects.

By Resolution 82-25 dated October 5, 1982, the Authority authorized and budgeted for various capital projects to be funded by investment earnings, contributions from other funds and appropriated fund balance.

The following four water related projects require a budget amendment in the amounts listed:

- North Conference Room Renovation (Increase Funding) $ 50,000
  - Video system and lighting control
  - 20 additional chairs
  - Lighting system
  - Computer
  - Completion of audio system and phase I of renovation
  - Storage units for equipment/supplies
- Bee Tree Dam Renovations (Engineering and Design) 315,390
- Department of Transportation's Biltmore Viaduct Project 160,000
- Repairs to the Burnette Dam Tunnel and Renovation of the Mine Hole Gap and Young's Cove Reservoirs 65,000

Costs for renovations of the North Conference Room were higher than expected because of its historical significance. Funding will be from the Contingency by the same amount.

Funding for all other projects listed is available from capital projects that were completed under budget. Capital project ordinance 82-25 should be restated to reflect a decrease in appropriations for the following projects: Annexation-Phase I (West Area), Annexation - Phase III (Brevard Road), and the Swannanoa 8" Water Line.

Regional Water Authority approved the North Conference Room Renovation on February 18, 1997 and the Bee Tree Dam Renovations, DOT Biltmore Viaduct and the Reservoirs/Tunnel Repairs on April 15, 1997.

Recommendation is to approve amending and restating Capital Project Ordinance 82-25 in order to provide funding for the North Conference Room Renovations, Bee Tree Dam Renovations, Department of Transportation's Biltmore Viaduct and Reservoirs/Tunnel Repairs.

BUDGET AMENDMENT RE: CHEROKEE ROAD WALL REPAIRS

Summary: The consideration of a budget amendment to cover the design phase of the rehabilitation of the Cherokee Road stone retaining wall.

The Public Works Department has determined that a 20' x 200' long retaining wall along Cherokee Road is in need of rehabilitation. The retaining wall was constructed approximately one hundred years ago and is failing. The road has been closed until repairs of the wall can be finished.

On March 5th, the Public Works Department was notified that a retaining wall along Cherokee Road was moving and a portion of road was slipping causing cracks in the roadway. Upon evaluation, it was determined that due to the age of the wall, installation of various utilities, increase of vehicle loading on the roadway, and water infiltration were causing the failure. Over the past two months, the wall has continued to move an additional six (6) inches. The wall is located in the Albemarle Park Historic District.

The rehabilitation of the wall will require the design services of a professional engineering firm. Design proposals were received on April 21st. Two proposals were received and two firms responded that there were not able to submit proposals. No other firms responded to the request. The Public Works Department has selected the lowest estimate proposal submitted by Day Engineering Services, P.A., working in conjunction with William Wescott, P.E. (historic preservation/ engineering) to perform all necessary testing, acquire all applicable permits (including Certificate of Appropriateness), design the rehabilitation, prepare all plats for easements, prepare plans and specifications for the rehabilitation of the wall, determine an estimate to perform the work, and to administer project construction.

The Public Works Department does not have budgeted funds to cover this project. At this time, $24,000 ($21,800 proposal amount and $2,200 for contingencies) for the design phase of the project must be appropriated to move forward. The design will take approximately three weeks. Upon completion of the design, the Public Works Department will request additional funding for the construction phase. The total project will hopefully be completed at the end of four months.

The Public Works Department staff recommends the adoption of the budget amendment to cover the design phase of the rehabilitation of the Cherokee Road stone retaining wall.

Mayor Martin asked that the record show that City Council has received this information and instructed the City Manager to place these items on the next formal City Council agenda.

RECOGNITION OF OFFICIALS FROM SAUMUR, FRANCE

Ms. Bernadette Williams introduced officials from our Sister City in Saumur, France. The delegation consisted of: Mr. Patrick Maire, Deputy Mayor, International Relations, accompanied by his wife Mrs. Catherine Charreau; Mr. Edmond Baury, member of City Council; Mrs. Catherine Girard, Director of Urban Planning & Development; Mrs. Danielle Mesnard, member of City Council; and Mrs. Danielle Pecourt, Deputy Mayor, School Affairs. Mayor Martin presented each visitor with a gift and one for the Mayor of Saumur, France. They in turn presented Mayor Martin with a gift.

AMERICAN RIVERS HERITAGE PROGRAM

Ms. Karen Cragnolin, Executive Director of RiverLink, explained the President Clinton's American Heritage Rivers Program in which he will designate 10 American Heritage Rivers to help communities along them revitalize their waterfronts and clean up pollution. Asheville is blessed to have the French Broad River flow through the middle of our City. The French Broad River is one of the oldest rivers in the United States and has the distinction of being the only river in the United States to flow North. The French Broad River has helped define our history and will play an even more vital role in our future as a sustainable community. RiverLink, which is spearheading the economic and environmental revitalization of this important regional resource, is pleased to be involved in a public private partnership with the City of Asheville. With the designation of the French Broad River as one of the American Heritage Rivers, resources such as programs, grants, and technical assistance will enable our community to work on behalf of a restored, revitalized river.

Ms. Cragnolin was pleased that this effort of designation has been endorsed by North Carolina Governor Jim Hunt and also Tennessee Governor Don Sundquist and that both states will be working together.

Mayor Martin asked that the record show that City Council has received this information and instructed the City Manager to place this item on the next formal City Council agenda.

DISCUSSION OF CONSOLIDATED PLAN FOR SUBMITTAL TO HUD

Mr. Marvin Vierra, Community Development Director, said that the City will be applying for $1,587,000 in CDBG and $995,000 through the HOME program for the coming year. Anticipated program income will increase available revenue for CDBG activities by $350,000 and by HOME $20,000.

Council action will authorize submittal of Consolidated Plan to HUD. Deadline for submittal is May 30, 1997. The Consolidated Plan serves as a planning document as well as the application for funding under the CDBG and HOME grant programs.

The City's Housing and Community Development Committee has reviewed applications from Agencies for CDBG funds and recommends CDBG funding allocation as described as follows:

The following table provides a breakdown of the projects and funding source for the year beginning July 1, 1997:

PROJECT	AGENCY	CDBG	HOME	MATCH	OTHER
Renter Education/Case Management	AHC	75,000	0	0	67,825
Homeowner Education/Counseling	AHC	31,000	0	0	30,000
Asheville Area Habitat for Humanity	AAHH	80,000	0	0	588,000
Fair Housing & Employment	ABCRC	25,000	0	0	175,000
West End/Clingman Infrastructure	MHO.	250,000	0	0	0
City Wide Rehab	COA	500,000	0	0	240,000
Credit Counseling	CCCS	9,000	0	0	300,075
South Pack Square Redevelopment	E/MSDC	136,255	0	0	15,100
Homeless Program	HH	36,000	0	0	596,835
Hillcrest Enrichment	HACA	47,500	0	0	102,440
Affordable Homeownership	MHO	200,000	0	0	3,915,340
Emergency Repair	MHO	50,000	0	0	94,000
NHS Cottage Works	NHS	63,750	0	0	60,000
NHS New Constr Single Family	NHS	198,750	24,500	6,125	150,000
Head of Montford Development	NHS	12,500	0	0	0
Contractor Development Program	NHS	12,500	0	0	0
Legal Services	PLS	20,000	0	0	0
New Hope Community Health Center	NHCHC	13,000	0	0	88,000
West End/Clingman Acquisition	MHO		260,000	65,000	0
Mountainside Apartments Rehab	HACA		95,425	18,856	1,253,800
C D Administration	COA	176,745	0	0	0
Buncombe Co Rural Housing Rehab	BC	0	254,658	63,664	35,000
New Construction Single Family	COH	0	50,000	12,500	0
New Construction Rental Housing	HAC	0	50,000	12,500	0
HAC Acquisition/Rehab/Resel l	HAC	C	74,750	18,687	0
Madison Co Homeowner Rehab	MC	0	56,417	14,104	0
HOME Administration	COA	0	71,360	0	0
Consortium Member Gov't Admin		0	28,140	0	0
CHDO Capacity Building		0	49,750	0	0
TOTAL		1,937,000 *	1,015,000 **	211,436	7,711,415

* Includes $350,000 program income
** Includes $20,000 program income

The Asheville Regional Housing Consortium has reviewed applications from Agencies and local governments for HOME funds and recommends HOME funding allocation as described on the proposed project listing.

A summary of the proposed Consolidated Plan was published in the Asheville-Citizen Times on March 28, 1997, requesting public comment to be submitted to the Community Development Division by April 30, 1997. Three community public hearings have been conducted by the staff on the Consolidated Plan.

Upon inquiry of Mayor Martin about HUD requesting that we have a higher emphasis on economic development in our disbursement of CDBG funds, Councilman Hay said that the Housing & Community Development Committee will be addressing this in the fall and that some of the projects chosen for funding do provide economic development.

Mayor Martin asked that the record show that City Council has received this information and instructed the City Manager to place this item on the next formal City Council agenda.

ASHEVILLE STANDARD SPECIFICATIONS AND DETAILS MANUAL

Mr. S. Douglas Spell, Assistant City Manager/Interim City Engineer, said that the Unified Development Ordinance (UDO) makes reference to a document containing design guidelines and technical specifications. This reflects staff's desire to prepare a formal document that would provide a resource to designers, developers and contractors involved in new construction or expansion of existing infrastructure.

He said that the Asheville Standard Specifications and Details manual has been prepared by City Staff. The preparation of this document has been coordinated by the Engineering Department and has been reviewed by various departments including Building Safety, Finance, Fire, Parks and Recreation, Planning and Development, Public Works and Water Resources. Staff comments were incorporated into a draft manual that was made available to the development community on April 15, 1997. Approximately 260 letters were mailed to businesses, developers, designers and contractors that had applied for related type permits or submitted plans to the City in the past three years. In his letter, he requested these parties/individuals review the draft manual and forward written comments to his attention no later than April 25, 1997. These comments were reviewed by staff with concurring comments incorporated into the final draft for City Council review and consideration. Also, a public meeting was held on May 1, 1997, to review the document and receive comments. He provided City Council with a summary of the information received from the public comments.

The Asheville Standard Specifications and Details manual consists of design guidelines and technical specifications for construction related to streets, sidewalks, water systems, storm drainage, parking lots, and pavement structure. The City standards outline the minimum construction standards which would be allowed in the City limits and extraterritorial zoning jurisdiction. The standard specifications would be applicable on both public and private property. For example, private streets and parking lots would be required to meet minimum pavement structure requirements. The rationale for this is due to the safety to the public, as well as to meet a standard to accommodate delivery vehicles or fire trucks. As a second example storm drainage on private property would be required to meet City standards due to the adverse impact improperly sized or installed pipe could have on public right of way or upstream properties.

The Engineering Department would be the primary department responsible for enforcement of the City standards through the Construction Inspectors. The City Engineer would be responsible for any requested variance or deviation from the City standards, except where otherwise noted. In some cases such as waiving the requirement for sidewalks, the City Council would be the only authority that could grant any non-conformance to the City standards. Additionally, the City

Engineer could make minor revisions to the City standards and would publish annual updates to the manual.

City staff recommends that the Asheville Standard Specifications and Details manual become effective on May 27, 1997, consistent with the effective date of the UDO. Following adoption of the Asheville Standard Specifications and Details manual, the Engineering Department would be responsible for the distribution of the manual. Copies will be available upon request for individuals/businesses to obtain a copy at a one time cost of $25.00. The manual will be in a three (3) ring binder and all updates will be available to individuals/businesses at no cost.

City staff recommends the adoption of the Asheville Standard Specifications and Details manual with implementation in accordance with the items reviewed in this staff report.

Upon inquiry of Vice-Mayor Field, Mr. Spell said that the Manual reflects true practice and where there was no continuity, staff recommended what they thought would be in the best interests of the City.

At the request of Councilman Cloninger, City Attorney Oast said that he would investigate the City's liability regarding the specifications being applicable on private property noting that it would probably be similar to the City's enforcement of the Building Code regulations.

Councilman Worley expressed concern of imposing additional restrictions on private property.

Mayor Martin asked that the record show that City Council has received this information and instructed the City Manager to place this item on the next formal City Council agenda.

MUNICIPAL BUILDING AND OLD WATER MAINTENANCE BUILDING DESIGN SERVICES

Mr. Lyle Willis, Contract Administrator, said that the Parks and Recreation Department is seeking authorization from City Council to enter into the Construction Documents and Bidding Phase of the existing contracts with the design firms ENG/6A and Padgett & Freeman Architects P.A., for design services to develop construction bid documents and to solicit bids for renovation of the Municipal Building and the Old Water Maintenance Building, respectively.

On August 7, 1996, the City of Asheville entered into contract with Six Associates Inc., d/b/a ENG/6A, for design services for renovation of the Municipal Building, located at 100 Court Plaza. The revised scope of work and related fees for this design services contract cover three phases of work, consisting of:

1. Preliminary Phase, estimated at $116,000;
2. Construction Documents and Bidding Phase, estimated at $382,000; and
3. Construction Management Phase, estimated at $194,000.

The Preliminary Phase, which has been completed, consisted of measuring and documenting existing conditions, reviewing all programming aspects of the building's occupants (the Fire and Police Departments), and developing schematic designs for owner review and approval. This phase of work concludes with the presentation and approval of the drawings and elevations being presented.

Construction costs for the project based on these design plans are approximately $13 million.

On November 5, 1996, the City of Asheville entered into contract with Padgett & Freeman Architects P.A., for design services for

renovation of the Old Water Maintenance Building, located at 174 S. Charlotte St., to allow for relocation of the Asheville City Schools maintenance offices from the Municipal Building to the lower floor of the Old Water Maintenance Building. The revised scope of work and related fees for this contract cover total design services, with a design fee of approximately $105,000.

The completed design elevations and floor layout drawings consisted of measuring and documenting existing conditions, reviewing all programming aspects of the building's occupants (Asheville City Schools and storage for the City's Water Resources Department and Purchasing Division), and developing schematic designs for owner review and approval. This phase of work concludes with the presentation and approval of the drawings and elevations being presented.

Construction costs for the project based on these design plans are approximately $1 million.

City staff has reviewed and made necessary changes to these documents for both buildings listed above. Staff requests City Council's concurrence so that the next phase of work may begin for both projects. City staff has reviewed funding sources and anticipates funding of these projects in FY 1997-98 and 1998-99.

Upon approval of the plans, City staff will assist ENG/6A and Padgett & Freeman Architects P.A. in completing the construction bid documents and the subsequent bid solicitation. The old Water Maintenance Building project is scheduled for construction work to be initiated in July 1997. The Municipal Building project is scheduled for construction work to be initiated in October 1997.

Staff recommends that the City Manager be authorized to enter into the Construction Documents Phase of the existing contracts with ENG/6A and Padgett & Freeman Architects P.A., for design services to develop construction bid documents and to solicit bids for renovation of the Municipal Building and the old Water Maintenance Building, respectively.

Ms. Patty Glazer reviewed the scope of work for the Stephens-Lee Recreation Center and answered various questions from Council regarding the renovations.

Mayor Martin asked that the record show that City Council has received this information and instructed the City Manager to place these items on the next formal City Council agenda.

APPROVAL OF TWO EXTERIOR SIGNS AT CIVIC CENTER

Mr. Lyle Willis, Contract Administrator, said that staff is requesting City Council to consider the replacement of informational signage at the Asheville Civic Center.

A Civic Center signage study was commissioned and completed in September 1996, with recommendations to improve the existing interior and exterior signage at the Asheville Civic Center. Based on those recommendations, the City entered into a contract for construction of ADA signage with Graphic Systems International Inc. of Greensboro, North Carolina. The estimated cost for the signage improvements is in the amount of $25,921. Funds are budgeted for this project in the Civic Center operating budget.

Among the signs to be constructed for and placed at the Civic Center is one exterior marquee sign that would replace one that is currently at the Civic Center. The second exterior sign would be a directory and would announce upcoming events and state information regarding the facilities that are housed within the Civic Center complex. The new Asheville Symphony Orchestra sign directory is to be mounted in the lobby area and is separate from and supplementary to the

existing sign mounted to the left of the entrance which states "Thomas Wolfe Auditorium." This existing sign would remain.

The Civic Center Commission sent a request on behalf of the Symphony to have all signs that currently read "Thomas Wolfe Auditorium," be changed to read "Thomas Wolfe Symphony Hall." City staff requests clarification from Council as to the final wording of signage designating the Thomas Wolfe Auditorium, because this wording affects several signs being constructed and installed under this new contract.

Staff requests City Council review of the drawings of the proposed new signage that would replace existing signage at various locations throughout the building and requests direction from City Council regarding the request by the Civic Center Commission.

Vice-Mayor Field had no problem with the name change but wondered if the non-profits (e.g., the dance and theatre companies) would feel excluded if the name was changed. She suggested inviting the Chairman of the Civic Center Commission to the formal meeting next week. She also suggested that contact be made to the major non-profits in the City to see if they have a concern with the name change. She just wanted to make sure that the name change is acceptable to the community.

Mayor Martin asked that the record show that City Council has received this information and instructed the City Manager to place this item on the next formal City Council agenda.

TESTING AND REMOVAL OF ASBESTOS AND LEAD-BASED PAINT FOR OLD WATER MAINTENANCE BUILDING

Mr. Lyle Willis, Contract Administrator, asked for City Council to consider a contract for the removal of all asbestos and lead-based paint from the Old Water Maintenance Building and the sandblasting of the exterior brick of that building.

On November 11, 1996, the City of Asheville entered into a contract for design services with Padgett & Freeman Architects, P.A., to provide services for the Old Water Maintenance Building and to provide construction specifications incorporating the relocation of Asheville City Schools maintenance offices into the first floor of the Old Water Maintenance Building located at 174 S. Charlotte Street.

In an effort to provide a clean construction site for remodeling and renovation, it is necessary to test for and remove existing asbestos and lead-based paint prior to the start of construction. By having the City enter into contract with a specialized firm, instead of relying upon the general contractor to subcontract this work, we will hold down overall construction costs.

The City received proposals for this hazardous waste testing and removal from Webster Environmental Inc. and NEO Corporation as follows:

NEO Corporation Waynesville, North Carolina	$ 112,600
Webster Environmental Inc. Ruffin, North Carolina	$ 205, 537

The City also requested that the firm of Padgett & Freeman check with other local sources to determine approximate abatement costs. It was determined that the bid from the NEO Corporation was in line with

costs from these other local sources, and that NEO Corporation would be best-suited for this project.

Staff recommends that the City Manager be authorized to enter into a contract with NEO Corporation for the testing and removal of asbestos and lead-based paint from the Old Water Maintenance Building.

Mayor Martin asked that the record show that City Council has received this information and instructed the City Manager to place this item on the next formal City Council agenda.

DISCUSSION OF UNIFIED DEVELOPMENT ORDINANCE SCHEDULING

Ms. Julia Cogburn, Planning & Development Director, said that staff is requesting further guidance from City Council regarding future UDO worksessions. The Planning & Zoning Commission worksession on the new mapping held on May 5, 1997, was very beneficial.

Councilman Worley moved to schedule a worksession immediately following the formal meeting on May 13, 1997, which begins at 5:00 p.m. in the Council Chamber of the City Hall Building. The worksession will be held in Room 623 of the City Hall Building for the purpose of discussing the new zoning maps for the Unified Development Ordinance. This motion was seconded by Councilman Skalski and carried unanimously. Planning and Development Department staff will have recommendations for Council's approval at the meeting.

RESOLUTION NO. 97-58 - RESOLUTION RENAMING DEAVERVIEW PARK IN MEMORY OF ROGER D. FARMER

Mr. Irby Brinson, Director of Parks & Recreation, said that the Parks and Recreation Advisory Board wishes to rename Deaverview Park in honor of Roger D. Farmer.

At the April 14 Parks and Recreation Advisory Board meeting, the Board unanimously approved the recommendation from West Asheville Little League Association to rename Deaverview Park in memory of Roger D. Farmer. Roger Farmer was a coach of youth baseball, basketball and football for 21 years. His enthusiasm for teaching children the skills of the sports, but more importantly the skills of life, was well-known. Roger was instrumental in making sure that the children he coached kept up their grades or they were not allowed to play. Roger had the love and respect of each child he coached and would spend countless hours dealing with each child individually and collectively.

Over 100 signatures were collected from parents and former players endorsing the renaming of Deaverview Park in memory of Roger Farmer. Roger passed away last year immediately following the regular season of play for the West Asheville Little League. This honor will be shared not only by his family but also by the West Asheville community.

The Asheville Parks and Recreation Advisory Board recommends approving the renaming of Deaverview Park in memory of Roger D. Farmer.

Councilman Worley moved to waive the rules and take formal action on this item at this time. This motion was seconded by Councilman Sellers and carried unanimously.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 97-58. This motion was seconded by Councilman Sellers and carried unanimously.

INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY - INSPECTION SERVICES FOR DEERFIELD RETIREMENT COMMUNITY

Assistant City Manager S. Douglas Spell said that consideration is requested of an Interlocal Agreement with Buncombe County for the purpose of performing building inspection functions for the Deerfield Retirement Community project.

The Deerfield Retirement Community consists of a total acreage of approximately 79.6 acres located along Hendersonville Road south of Valley Springs Road. A proposed development plan was reviewed by the City for the portion of the project within the City and approved on July 11, 1995. The proposed project consists of the construction of a health center, assisted living apartments, community center, chapel, and cottages on individual lots. Approximately 25 acres of the project site is located outside the corporate limits of the City of Asheville and is within the jurisdiction of Buncombe County. Due to the City/County line bisecting the project, building inspections services would be extremely complicated for this project. The result would be that the City would inspect the portion of the project located in the City limits, the County would inspect the portion of the project located in Buncombe County, and fire inspections by the City of Asheville would occur on the project as a whole since we would be the primary fire protection provider. This inspection process would be further complicated due to the major communication components for the proposed apartment buildings being located on one side of the jurisdictional line requiring inspections by both jurisdictions.

In order to simplify the inspections process, the City and County have discussed the possibility of entering into an "Interlocal Agreement" whereby the City would inspect this project in its entirety. Additionally, the City has received a voluntary annexation petition whereby all portions of the property located outside the corporate limits would be annexed into the City. However, this could not occur prior to the construction associated with this project being initiated and the contractor obtaining all necessary permits. Therefore, staff has prepared an "Interlocal Agreement" between the City of Asheville and Buncombe County which would encompass the City performing building inspection services for the proposed Deerfield Retirement Community project.

Staff recommends that City Council authorize the City Manager to execute an Interlocal Agreement pertaining to building inspection services for the Deerfield Retirement Community subject to final approval by City Council.

Mayor Martin asked that the record show that City Council has received this information and instructed the City Manager to place this item on the next formal City Council agenda.

BOARDS AND COMMISSIONS

As an official duty of the Vice-Mayor to oversee the process of board and commission appointments and for her and the committee members to make recommendations to the entire Council, she recommended that if someone has served one term, is interested in reappointment and has met the attendance requirements, that that person be reappointed to serve a second term.

Subject to the City Clerk verifying the criteria above, the Committee recommended the following: J. Howard Collins, Nancy Williams and Stephen Toomey be reappointed to the Asheville Area Civic Center Commission; Eugene Presley, Joe Enderle and Harold Garland be reappointed to the Board of Electrical Examiners; Shirley Early and Pam Nickless be reappointed to the Asheville-Buncombe Historic Resources

Commission; and Thomas McMahon, William Stewart, Jim Orr and Samuel Camp be reappointed to the Recreation Board.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork for appointments as outlined above by Vice-Mayor Field.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Susan Dodson to fill an unexpired term on the Carriage Permit Advisory Board.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Nancy Kauffman to the Civil Service Board.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Ronnie A. McAbee Sr. (journeyman electrician) and Terry Ponder (utility representative) to the Board of Electrical Examiners.

Mayor Martin instructed the City Clerk to prepare the proper paperwork to reappoint Annette Coleman to the Housing Authority.

City Council also instructed the City Clerk to arrange interviews for Timothy Fiele, Laura Anderson and David Newell for the Asheville Downtown Commission; and Toby Heaton and Michael Harney for the Buncombe County Drug Commission.

CLOSED SESSION

At 4:52 p.m., Councilman Worley moved to go into closed session (1) to consult with an attorney employed or retained by the City Council in order to preserve the attorney-client privilege between the City and its attorney. The parties to the lawsuits about which the Council expects to receive advice are the City of Asheville, Taylor-Murphy Construction Company and WNC Regional Air Pollution Control Agency - the statutory authority is G.S. 143-318.11 (a) (3); (2) to discuss matters relating to the location or expansion of a business or industry - the statutory authority is G.S. 143-318.11 (a) (4); and (3) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price or other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease - the statutory authority is G.S. 143-318.11 (a) (5). This motion was seconded by Vice-Mayor Field and carried unanimously.

At 5:25 p.m., Councilman Cloninger moved to come out of closed session and adjourn the meeting. This motion was seconded by Councilman Sellers and carried unanimously.

After announcing the meeting adjourned, City Attorney Oast announced that the City would be taking a dismissal of the actions pending against Taylor-Murphy Construction Company and the WNC Air Pollution Control Agency.

JOINT MEETING OF THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION AND CITY COUNCIL

At 5:30 p.m. in the Council Chamber of the City Hall Building, City Council met with the Asheville-Buncombe Historic Resources Commission and Electronic Interiors to discuss audio-visual design services to renovate the Council Chamber in the City Hall Building. This meeting adjourned at approximately 6:00 p.m.

Magdalen Bourleon
CITY CLERK

MAYOR

Tuesday - May 13, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and Deputy City Clerk Phyllis Corns

Absent: None

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 97-57 - RESOLUTION OF APPRECIATION TO SHARON RUFF, RECREATION CENTER DIRECTOR II

City Manager Westbrook read the resolution stating that Sharon Ruff has been employed by the City of Asheville for 23 years and has requested retirement from her position as Recreation Center Director II in the Parks and Recreation Department. Mayor Martin expressed City Council's appreciation to Sharon for her service to the City of Asheville and its citizens.

Councilman Worley moved for the adoption of Resolution No. 97-57. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 57

B. PROCLAMATION PROCLAIMING THE WEEK OF MAY 18-24, 1997, AS "EMERGENCY MEDICAL SERVICES WEEK"

Mayor Martin read the proclamation proclaiming the week of May 18-24, 1997, as "Emergency Medical Services Week" in the City of Asheville. He presented the proclamation to Fire Chief John Rukavina who introduced Mr. and Mrs. Ed Crowley who had occasion to use the emergency medical services and the firefighters from Asheville who were involved in the incident.

C. PROCLAMATION PROCLAIMING THE WEEK OF MAY 18-24, 1997, AS "NATIONAL PUBLIC WORKS WEEK"

Mayor Martin read the proclamation proclaiming the week of May 18-24, 1997, as "National Public Works Week" in the City of Asheville. He recognized representatives of Metropolitan Sewerage District, the Parks and Recreation Department, the Public Works Department, the Fleet Management Division and the Water Resources Department and presented each with a proclamation. Assistant Public Works Director Suzanne Molloy briefed the Council on some activities that would be taking place during the week.

D. PROCLAMATION PROCLAIMING TUESDAY, MAY 20, 1997, AS "STRIVE TO NOT DRIVE DAY"

Mayor Martin read the proclamation proclaiming May 20, 1997, as "Strive to Not Drive Day" in the City of Asheville. He presented Ms. Elizabeth Teague, Mr. Tom Redinger and Mr. Jim Heimbach, all with the Land-of-Sky Regional Council, with the proclamation. Ms. Teague briefed the Council on some activities that would be taking place during the day.

II. CONSENT:

Councilman Skalski asked that Item B. be pulled from the Resolutions & Motions Consent Agenda for individual discussion.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON APRIL 22, 1997; THE JOINT PUBLIC HEARINGS WITH THE PLANNING & ZONING COMMISSION ON THE UDO MAPPING HELD ON APRIL 23 AND 24, 1997; AND THE WORKSESSION HELD ON MAY 6, 1997

B. RESOLUTION AUTHORIZING SUBMITTAL OF CONSOLIDATED PLAN TO HUD

This item was pulled from the Consent Agenda for individual discussion.

C. RESOLUTION NO. 97-59 - RESOLUTION AUTHORIZING THE ENTERING INTO A CONTRACT WITH NEO CORPORATION FOR TESTING AND REMOVAL OF ASBESTOS AND LEAD-BASED PAINT FROM THE OLD WATER MAINTENANCE BUILDING

Summary: Consideration of a contract for the removal of all asbestos and lead-based paint from the Old Water Maintenance Building and the sandblasting of the exterior brick of that building.

On November 11, 1996, the City of Asheville entered into a contract for design services with Padgett & Freeman Architects, P.A., to provide services for the Old Water Maintenance Building and to provide construction specifications incorporating the relocation of Asheville City Schools maintenance offices into the first floor of the Old Water Maintenance Building located at 174 S. Charlotte Street.

In an effort to provide a clean construction site for remodeling and renovation, it is necessary to test for and remove existing asbestos and lead-based paint prior to the start of construction. By having the City enter into contract with a specialized firm, instead of relying upon the general contractor to subcontract this work, we will hold down overall construction costs.

The City received proposals for this hazardous waste testing and removal from Webster Environmental Inc. and NEO Corporation as follows:

NEO Corporation Waynesville, North Carolina	$ 112,600
Webster Environmental Inc. Ruffin, North Carolina	$ 205, 537

The City also requested that the firm of Padgett & Freeman check with other local sources to determine approximate abatement costs. It was determined that the bid from the NEO Corporation was in line with costs from these other local sources, and that NEO Corporation would be best-suited for this project.

Staff recommends that the City Manager be authorized to enter into a contract with NEO Corporation for the testing and removal of asbestos and lead-based paint from the Old Water Maintenance Building.

RESOLUTION BOOK NO. 24 - PAGE 59

D. RESOLUTION NO. 97-60 - RESOLUTION AUTHORIZING THE CITY MANAGER TO NOTIFY ENG/6A TO PROCEED WITH THE CONSTRUCTION DOCUMENT PHASE, THE BIDDING PHASE AND THE CONSTRUCTION PHASE FOR DESIGN SERVICES FOR RENOVATION OF THE MUNICIPAL BUILDING

Summary: Parks and Recreation Department is seeking authorization from City Council to enter into the Construction Documents and Bidding Phase of the existing contracts with the design firms ENG/6A and Padgett & Freeman Architects P.A., for design services to develop construction bid documents and to solicit bids for renovation of the Municipal Building and the Old Water Maintenance Building, respectively.

On August 7, 1996, the City of Asheville entered into contract with Six Associates Inc., d/b/a ENG/6A, for design services for renovation of the Municipal Building, located at 100 Court Plaza. The revised scope of work and related fees for this design services contract cover three phases of work, consisting of:

1. Preliminary Phase, estimated at $116,000;

2. Construction Documents and Bidding Phase, estimated at $382,000; and

3. Construction Management Phase, estimated at $194,000.

The Preliminary Phase, which has been completed, consisted of measuring and documenting existing conditions, reviewing all programming aspects of the building's occupants (the Fire and Police Departments), and developing schematic designs for owner review and approval. This phase of work concludes with the presentation and approval of the drawings and elevations being presented.

Construction costs for the project based on these design plans are approximately $13 million.

On November 5, 1996, the City of Asheville entered into contract with Padgett & Freeman Architects P.A., for design services for renovation of the Old Water Maintenance Building, located at 174 S. Charlotte St., to allow for relocation of the Asheville City Schools maintenance offices from the Municipal Building to the lower floor of the Old Water Maintenance Building. The revised scope of work and related fees for this contract cover total design services, with a design fee of approximately $105,000.

The completed design elevations and floor layout drawings consisted of measuring and documenting existing conditions, reviewing all programming aspects of the building's occupants (Asheville City Schools and storage for the City's Water Resources Department and Purchasing Division), and developing schematic designs for owner review and approval. This phase of work concludes with the presentation and approval of the drawings and elevations being presented.

Construction costs for the project based on these design plans are approximately $1 million.

City staff has reviewed and made necessary changes to these documents for both buildings listed above. Staff requests City

Council's concurrence so that the next phase of work may begin for both projects. City staff has reviewed funding sources and anticipates funding of these projects in FY 1997-98 and 1998-99.

Upon approval of the plans, City staff will assist ENG/6A and Padgett & Freeman Architects P.A. in completing the construction bid documents and the subsequent bid solicitation. The Old Water Maintenance Building project is scheduled for construction work to be initiated in July 1997. The Municipal Building project is scheduled for construction work to be initiated in October 1997.

Staff recommends that the City Manager be authorized to enter into the Construction Documents Phase of the existing contracts with ENG/6A and Padgett & Freeman Architects P.A., for design services to develop construction bid documents and to solicit bids for renovation of the Municipal Building and the Old Water Maintenance Building, respectively.

RESOLUTION BOOK NO. 24 - PAGE 60

E. **RESOLUTION NO. 97-61 - RESOLUTION AUTHORIZING THE CITY MANAGER TO NOTIFY PADGETT & FREEMAN ARCHITECTS, P.A., TO PROCEED WITH THE CONSTRUCTION DOCUMENT PHASE, THE BIDDING PHASE AND THE CONSTRUCTION PHASE FOR DESIGN SERVICES FOR RENOVATION OF THE OLD WATER MAINTENANCE BUILDING**

Summary: See Item F above.

RESOLUTION BOOK NO. 24 - PAGE 61

F. **RESOLUTION NO. 97-62 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT, HEALTH AND NATURAL RESOURCES TO FUND THE SUMMER DAY CAMP AND PLAYGROUND PROGRAMS**

Summary: The consideration of a grant application through the N. C. Dept. of Environment, Health and Natural Resources to provide food service in the Summer Day Camp and Playground Programs.

Funds are available through the N. C. Dept. of Environment, Health and Natural Resources, Division of Maternal and Child Health, Child and Adult Care Food Program to provide breakfast, lunch, and snacks.

The Summer Day Camp Program will provide supervised licensed child care, recreation, enrichment activities, and food service for children in kindergarten through 5th grade, June 9 through August 8, 1997, Monday through Friday, 7:30 am to 6 pm. The cost of the program is $65 per week for city residents, $75 per week for non-city residents. Sites will be located at Claxton, Hall Fletcher, Jones, Randolph, and Vance Elementary Schools; and Reid Recreation Center. Breakfast, lunch and snacks will be provided daily at no extra cost. The number of meals and amount of reimbursement will vary based on the total meals actually served each month.

The Summer Playground Program will provide supervised recreation activities for children ages 6 to 12, June 16 through August 7, Monday through Friday, 10:30 am to 5:30 pm. Free of charge with a one time $10 activity fee. Sites will be located at Shiloh, East Asheville, Murphy-Oakley and Burton St. Community Centers; Martin Luther King, Weaver and Walton St. Parks; and Woodridge Apts., Mountainside Apts., Pisgah View Apts., and Klondyke Homes. Lunch will be provided daily with no extra

cost. The number of meals and the amount of reimbursement will vary based on the total meals actually served each month.

The Parks and Recreation Department recommends the City of Asheville apply for the Summer Food Service Program for Children through the North Carolina Department of Environment, Health and Natural Resources.

RESOLUTION BOOK NO. 24 - PAGE 62

G. RESOLUTION NO. 97-63 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CRISP, HUGHES & CO., L.L.P., FOR AUDITING SERVICES FOR FISCAL YEAR 1996-97

Summary: N. C. Gen. Stat. sec. 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

In 1993 the local audit firm of Crisp Hughes & Co., L.L.P., won the bid for the City's audit with the option, dependent upon the quality of service, to be re-engaged annually for a period of three to five years. They performed the FY '93, FY '94, FY '95 and FY '96 audits and have now submitted an engagement letter for the FY '97 audit. The FY '97 audit fee has been estimated at, and limited to, $52,000. Funds are appropriated in the budget of the Accounting Division of the Finance Department. The fee includes an audit in accordance with generally accepted auditing standards which includes an assessment of the City's internal control procedures, testing for compliance with N. C. Gen. Statutes, testing for compliance with pronouncements of the Governmental Accounting Standards Board, Standards for Audit of Governmental Organizations, Programs, Activities and Functions, the Guidelines for Financial and Compliance Audits of Federally Assisted Programs and the Federal Office of Management and Budget's Compliance Supplement for Single Audits of State and Local Governments.

Staff recommends adoption of the ordinance and re-appointment of the audit firm Crisp Hughes & Co., L.L.P.

RESOLUTION BOOK NO. 24 - PAGE 63

H. RESOLUTION NO. 97-64 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 10.2 ON CARROLL AVENUE IN THE EAST END/VALLEY STREET PROJECT TO ALVIN AND LAVONDA SEARLES

Summary: The consideration of a resolution authorizing the Mayor to convey Disposal Parcel 10.2 in the East End/Valley Street Community Improvement Area to Alvin and Lavonda Searles.

On April 22, 1997, the City Council directed the City Clerk to advertise for upset bids on Disposal Parcel 10.2. The advertisement ran in the Asheville Citizen-Times on April 25, 1997, as provided in N. C. Gen. Stat. sec. 160A-269. A response to the advertisement was not received. Therefore, the offer to purchase from Alvin and Lavonda Searles in the amount of $7,875.00 was not upset and the sale to Alvin and Lavonda Searles should be approved.

Approval of the resolution will authorize the sale of the property to Alvin and Lavonda Searles for the amount of $7,875.00.

Community Development staff recommends adoption of the resolution to convey Disposal Parcel 10.2 in the East End/Valley Street Community Improvement Area to Alvin and Lavonda Searles in the amount of $7,875.00.

RESOLUTION BOOK NO. 24 - PAGE 64

I. MOTION SETTING A PUBLIC HEARING FOR MAY 27, 1997, TO CONSIDER A ZONING VESTED RIGHT FOR ASHEVILLE CITY SCHOOLS AT LUCY HERRING FACILITY

J. RESOLUTION NO. 97-65 - RESOLUTION ENDORSING THE DESIGNATION OF THE FRENCH BROAD RIVER AS AN AMERICAN HERITAGE RIVER

Summary: President Clinton has initiated the American Heritage Rivers Program in which he will designate 10 American Heritage Rivers to help communities along them revitalize their waterfronts and clean up pollution. Asheville is blessed to have the French Broad River flow through the middle of our City. The French Broad River is one of the oldest rivers in the United States and has the distinction of being the only river in the United States to flow North. The French Broad River has helped define our history and will play an even more vital role in our future as a sustainable community. RiverLink, which is spearheading the economic and environmental revitalization of this important regional resource, is pleased to be involved in a public private partnership with the City of Asheville. With the designation of the French Broad River as one of the American Heritage Rivers, resources such as programs, grants, and technical assistance will enable our community to work on behalf of a restored, revitalized river.

RESOLUTION BOOK NO. 24 - PAGE 65

K. RESOLUTION NO. 97-66 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY PERTAINING TO BUILDING INSPECTION SERVICES FOR THE DEERFIELD RETIREMENT COMMUNITY

Summary: The consideration of an Interlocal Agreement with Buncombe County for the purpose of performing building inspection functions for the Deerfield Retirement Community project.

The Deerfield Retirement Community consists of a total acreage of approximately 79.6 acres located along Hendersonville Road south of Valley Springs Road. A proposed development plan was reviewed by the City for the portion of the project within the City and approved on July 11, 1995. The proposed project consists of the construction of a health center, assisted living apartments, community center, chapel, and cottages on individual lots as shown on the attached sketch plan. Approximately 25 acres of the project site is located outside the corporate limits of the City of Asheville and is within the jurisdiction of Buncombe County. Due to the City/County line bisecting the project, building inspections services would be extremely complicated for this project. The result would be that the City would inspect the portion of the project located in the City limits, the County would inspect the portion of the project located in Buncombe County, and fire inspections by the City of Asheville would occur on the project as a whole since we would be the primary fire protection provider. This inspection process would be further complicated due to the major communication components for the proposed apartment buildings being located on one side of the jurisdictional line requiring inspections by both jurisdictions.

In order to simplify the inspections process, the City and County have discussed the possibility of entering into an "Interlocal Agreement" whereby the City would inspect this project in its entirety. Additionally, the City has received a voluntary annexation petition whereby all portions of the property located outside the corporate limits would be annexed into the City. However, this could not occur prior to the construction associated with this project being initiated and the contractor obtaining all necessary permits. Therefore, staff has prepared an "Interlocal Agreement" between the City of Asheville and Buncombe County which would encompass the City performing building inspection services for the proposed Deerfield Retirement Community project as outlined herein.

Staff recommends that City Council authorize the City Manager to execute an Interlocal Agreement pertaining to building inspection services for the Deerfield Retirement Community subject to final approval by City Council.

RESOLUTION BOOK NO. 24 - PAGE 67

L. MOTION SETTING A PUBLIC HEARING FOR MAY 27, 1997, TO AMEND THE ZONING ORDINANCE REGARDING GOVERNMENTAL SIGNS AND SIGNS IN THE RIGHT-OF-WAY

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Cloninger and carried unanimously.

Ordinances:

A. ORDINANCE NO. 2361 - BUDGET AMENDMENT FOR AN EQUIPMENT PURCHASE PROJECT FOR THE POLICE DEPARTMENT ALLOWED UNDER THE BUREAU OF JUSTICE ASSISTANCE GUIDELINES

Summary: This budget amendment, in the amount of $116,231, is for an equipment purchase project for the Police Department allowed under the Bureau of Justice Assistance Guidelines.

ORDINANCE BOOK NO. 16 - PAGE 186

B. ORDINANCE NO. 2362 - BUDGET AMENDMENT FOR THE DESIGN PHASE OF THE REHABILITATION OF THE CHEROKEE ROAD STONE RETAINING WALL

Summary: This budget amendment, in the amount of $24,000, is for the design phase of the rehabilitation of the Cherokee Road stone retaining wall.

ORDINANCE BOOK NO. 16 - PAGE 188

C. ORDINANCE NO. 2363 - BUDGET AMENDMENT TO REVISE APPROPRIATIONS IN THE WATER CAPITAL CONSTRUCTION FUND

Summary: This budget amendment, in the amount of $590,390, is to revise appropriations in the Water Capital Construction Fund for the North Floor Conference Room renovation, the Bee Tree Dam Renovations, the N. C. Dept. of Transportation's Biltmore Viaduct Project and the Reservoirs/Tunnel Repairs Project.

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Sellers moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Skalski.

On a roll call vote of 7-0, the Ordinance Consent Agenda was adopted on its first reading.

ITEM PULLED FROM THE CONSENT AGENDA

RESOLUTION NO. 97-67 - RESOLUTION AUTHORIZING SUBMITTAL OF CONSOLIDATED PLAN TO HUD

Summary: The City will be applying for $1,587,000 in CDBG and $995,000 through the HOME program for the coming year. Anticipated program income will increase available revenue for CDBG activities by $350,000 and by HOME $20,000.

Council action will authorize submittal of Consolidated Plan to HUD. Deadline for submittal is May 30, 1997. The Consolidated Plan serves as a planning document as well as the application for funding under the CDBG and HOME grant programs.

The City's Housing and Community Development Committee has reviewed applications from Agencies for CDBG funds and recommends CDBG funding allocation as described as follows:

The following table provides a breakdown of the projects and funding source for the year beginning July 1, 1997:

PROJECT	AGENCY	CDBG	HOME	MATCH	OTHER
Renter Education/Case Management	AHC	75,000	0	0	67,825
Homeowner Education/Counseling	AHC	31,000	0	0	30,000
Asheville Area Habitat for Humanity	AAHH	80,000	0	0	588,000
Fair Housing & Employment	ABCRC	25,000	0	0	175,000
West End/Clingman Infrastructure	MHO.	250,000	0	0	0
City Wide Rehab	COA	500,000	0	0	240,000
Credit Counseling	CCCS	9,000	0	0	300,075
South Pack Square Redevelopment	E/MSDC	136,255	0	0	15,100
Homeless Program	HH	36,000	0	0	596,835
Hillcrest Enrichment	HACA	47,500	0	0	102,440
Affordable Homeownership	MHO	200,000	0	0	3,915,340
Emergency Repair	MHO	50,000	0	0	94,000
NHS Cottage Works	NHS	63,750	0	0	60,000
NHS New Constr Single Family	NHS	198,750	24,500	6,125	150,000

Head of Montford	NHS	12,500	0	0	0
Development					
Contractor Development Program	NHS	12,500	0	0	0
Legal Services	PLS	20,000	0	0	0
New Hope Community Health Center	NHCHC	13,000	0	0	88,000
West End/Clingman Acquisition	MHO		260,000	65,000	0
Mountainside Apartments Rehab	HACA		95,425	18,856	1,253,800
C D Administration	COA	176,745	0	0	0
Buncombe Co Rural Housing Rehab	BC	0	254,658	63,664	35,000
New Construction Single Family	COH	0	50,000	12,500	0
New Construction Rental Housing	HAC	0	50,000	12,500	0
HAC Acquisition/Rehab/Resell	HAC	0	74,750	18,687	0
Madison Co Homeowner Rehab	MC	0	56,417	14,104	0
HOME Administration	COA	0	71,360	0	0
Consortium Member Gov't Admin		0	28,140	0	0
CHDO Capacity Building		0	49,750	0	0
TOTAL		1,937,000 *	1,015,000 **	211,436	7,711,415

* Includes $350,000 program income
** Includes $20,000 program income

The Asheville Regional Housing Consortium has reviewed applications from Agencies and local governments for HOME funds and recommends HOME funding allocation as described on the proposed project listing.

A summary of the proposed Consolidated Plan was published in the Asheville-Citizen Times on March 28, 1997, requesting public comment to be submitted to the Community Development Division by April 30, 1997. Three community public hearings have been conducted by the staff on the Consolidated Plan.

Councilman Skalski, member on the Housing & Community Development Committee, voiced concern over a couple of allocations that he felt were not equally distributed to the poor that really need the housing.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 97-67. This motion was seconded by Councilman Hay and carried on a 6-1 vote, with Councilman Skalski voting "no".

RESOLUTION BOOK NO. 24 - PAGE 68

III. PUBLIC HEARINGS:

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION ADOPTING THE ASHEVILLE STANDARD SPECIFICATIONS AND DETAILS MANUAL

Assistant City Manager S. Douglas Spell said that the Unified Development Ordinance (UDO) makes reference to a document containing design guidelines and technical specifications. This reflects staff's desire to prepare a formal document that would provide a resource to designers, developers and contractors involved in new construction or expansion of existing infrastructure.

He said that the Asheville Standard Specifications and Details manual has been prepared by City Staff. The preparation of this document has been coordinated by the Engineering Department and has been reviewed by various departments including Building Safety, Finance, Fire, Parks and Recreation, Planning and Development, Public Works and Water Resources. Staff comments were incorporated into a draft manual that was made available to the development community on April 15, 1997. Approximately 260 letters were mailed to businesses, developers, designers and contractors that had applied for related type permits or submitted plans to the City in the past three years. In his letter, he requested these parties/individuals review the draft manual and forward written comments to his attention no later than April 25, 1997. These comments were reviewed by staff with concurring comments incorporated into the final draft for City Council review and consideration. Also, a public meeting was held on May 1, 1997, to review the document and receive comments. Staff provided City Council with a summary of the information received from the public comments.

The Asheville Standard Specifications and Details manual consists of design guidelines and technical specifications for construction related to streets, sidewalks, water systems, storm drainage, parking lots, and pavement structure. The City standards outline the minimum construction standards which would be allowed in the City limits and extraterritorial zoning jurisdiction. The standard specifications would be applicable on both public and private property. For example, private streets and parking lots would be required to meet minimum pavement structure requirements. The rationale for this is due to the safety to the public, as well as to meet a standard to accommodate delivery vehicles or fire trucks. As a second example storm drainage on private property would be required to meet City standards due to the adverse impact improperly sized or installed pipe could have on public right of way or upstream properties.

The Engineering Department would be the primary department responsible for enforcement of the City standards through the Construction Inspectors. The City Engineer would be responsible for any requested variance or deviation from the City standards, except where otherwise noted. In some cases such as waiving the requirement for sidewalks, the City Council would be the only authority that could grant any non-conformance to the City standards. Additionally, the City Engineer could make minor revisions to the City standards and would publish annual updates to the manual.

City staff recommends that the Asheville Standard Specifications and Details manual become effective on May 27, 1997, consistent with the effective date of the UDO. Following adoption of the Asheville Standard Specifications and Details manual, the Engineering Department would be responsible for the distribution of the manual. Copies will be available upon request for individuals/businesses to obtain a copy at a

one time cost of $25.00. The manual will be in a three ring binder and all updates will be available to individuals/businesses at no cost.

City staff recommends the adoption of the Asheville Standard Specifications and Details manual with implementation in accordance with the items reviewed.

Mr. Bob Selby, President of the Council of Independent Business Owners, said that they have not had sufficient time within which to review the Manual and requested a delay of two weeks before adoption. He said his concerns were more of a tactical nature and used the example if requiring any retaining wall on private property over 5 feet to be certified and stamped. He didn't think the Homebuilders Association or the Board of Realtors have given Council, from an owner's and developer's point of view, what this Manual means to them. He felt that two weeks notice to provide comments is not enough time.

Upon inquiry of Councilman Skalski, Mr. Spell said that if it is the desire of Council to delay the adoption, staff will certainly work with the community as needed and try to respond. He did note that the specific item Mr. Selby noted is a direct quote out of the North Carolina Building Code and City staff basically included it in this Manual as a convenience factor so that it was redundant and caught people's attention.

Councilman Worley stated that this is not an ordinance. Council is endorsing a concept of having a Manual that's uniform among all our departments and it doesn't change the concept that staff has always had the ability to set these standards and specifications and can change them. It is easily changeable.

Mr. Selby said that since there are major requirements in the Manual that do need Council approval to change, he again requested a delay of two weeks.

City Attorney Oast said that the document before Council is a set of design guidelines and standard specifications which are supposed to guide development in the City of Asheville. There is flexibility built into the document. The matter before Council today is to endorse the concept and the particular items contained in it and to direct staff to proceed to implement that within the guidelines set forth in the Manual itself.

City Manager Westbrook said that Council would need to take action on this matter before two weeks. He explained that May 27, 1997, is the date scheduled for the adoption of the UDO, which makes reference to this document.

Councilman Worley then moved to continue this matter one week, until May 20, 1997. This motion was seconded by Councilman Skalski and carried unanimously.

B. MOTION TO APPROVE THE INFORMATIONAL SIGNAGE OF TWO EXTERIOR SIGNS AT ASHEVILLE CIVIC CENTER

Mr. Lyle Willis, Contract Administrator, said that staff is requesting City Council to consider the replacement of informational signage at the Asheville Civic Center.

A Civic Center signage study was commissioned and completed in September 1996, with recommendations to improve the existing interior and exterior signage at the Asheville Civic Center. Based on those recommendations, the City entered into a contract for construction of

ADA signage with Graphic Systems International Inc. of Greensboro, N.C. The estimated cost for the signage improvements is in the amount of $25,921. Funds are budgeted for this project in the Civic Center operating budget.

Among the signs to be constructed for and placed at the Civic Center is one exterior marquee sign that would replace one that is currently at the Civic Center. The second exterior sign would be a directory and would announce upcoming events and state information regarding the facilities that are housed within the Civic Center complex. The new Asheville Symphony Orchestra sign directory is to be mounted in the lobby area and is separate from and supplementary to the existing sign mounted to the left of the entrance which states "Thomas Wolfe Auditorium." This existing sign would remain.

By a letter dated April 21, 1997, the Civic Center Commission, at the request of the Asheville Symphony, endorsed and requested that the "Thomas Wolfe Auditorium," be renamed to the "Thomas Wolfe Symphony Hall." City staff requests clarification from Council as to the final wording of signage designating the Thomas Wolfe Auditorium, because this wording affects several signs being constructed and installed under this new contract.

Staff requests City Council review of the drawings of the proposed new signage that would replace existing signage at various locations throughout the building.

Staff requests that City Council provide direction as outlined in this report and recommends that the City Manager be authorized to enter into a contract for the installation of new informational signage that would replace existing signage located throughout the Asheville Civic Center.

Councilman Skalski felt that he did not have sufficient information on how the community felt with the proposed name change.

Mr. Stephen Toomey, Chairman of the Civic Center Commission, said that in February, 1997, the Asheville Symphony sent a letter to the Commission outlining several items for them to take under consideration. The name change being requested was from the "Thomas Wolfe Auditorium" to the "Thomas Wolfe Symphony Hall". This request is not to rename the hall after the Symphony, but yet give the area itself more of a symphony hall presence. He said the people he has talked to have said that having the words "Symphony Hall" in its name will give some artistic value to the facility. The Asheville Symphony has been a tenant of the facility since 1974 and they hold the most number of performances in the Thomas Wolfe Auditorium of any existing groups performing there now.

Vice-Mayor Field said that she has no problem with it being renamed to a Symphony Hall, she just wants to be sensitive to the entire cultural community. She felt that given all of the other cultural activities and other cultural organizations in town that use the Thomas Wolfe Auditorium and given some of the difficulties that people have had this past year in dealing with the Civic Center with the increase in fees, etc., they should be given an opportunity to give their input into this name change.

Mr. Willis said that he has talked with a man who deals with the Mountain Heritage Dancers and he had no objection. He was going to talk with some of the people with that particular group. He has also talked with the Community Concerts and they were going to poll their members and come back with their response.

Councilman Cloninger agreed with Vice-Mayor Field. He wanted to be supportive of the Symphony but he felt we needed some additional input from the public before we take this step.

Mr. Toomey said that this is not so much a request for support of the Asheville Symphony but more in line with just upgrading the name of the facility to encompass more of a performing arts type facility versus the an auditorium.

Councilman Hay asked Interim Civic Center Director Manuel Costa for his opinion on the name change. Mr. Costa said that the connotation of auditorium does mean high school auditorium. When they are out promoting the area and can say it's a symphony hall, then it gives them the impression of more of a performing arts center. He didn't think when the Asheville Symphony made their presentation, that they were looking for it to be the Symphony Hall. They were looking for a name that would encompass what Asheville really had to offer and that would be our performing arts center. He felt that with the name change to Symphony Hall, it might be a little easier to attract promoters and events.

Councilman Skalski moved to table the issue until a report is received from staff regarding the name change. This motion was seconded by Councilman Sellers.

At the request of Councilman Hay, Councilman Skalski then moved to amend his motion to (1) approve the replacement of informational signage at the Asheville Civic Center as outlined above and (2) table any sign changes regarding the renaming of the Thomas Wolfe Auditorium until staff provides Council with a report from other cultural groups with their input. The groups to be polled are to be Asheville based and who have used the Civic Center and the Thomas Wolfe Auditorium over the last five years. Councilman Sellers accepted the amendment to the motion. Said motion carried unanimously.

VI. OTHER BUSINESS:

A. RIVER PROPERTY OWNERS

Mr. Jerry Sternberg, representing the French Broad River and the Swannanoa River property owners, read the following statement: "The river property owners are not unhappy with the present Heavy Industrial zoning classification of the River District. Pressure for changing this zoning has come from outside organizations such as Planning & Zoning, City Council and the RiverLink organization. The changes impose additional restrictions on the property owners which means that certain of their rights and privileges are taken away. Quite often, at least in the short-run, their property values are diminished. Over the past eight years we have constantly been told that we should reason and compromise with these groups in order that a revitalization of the riverfront could take place which would benefit all of the citizens of the community including the river property owners. After many meetings and much controversy a meeting was held last October with RiverLink's representatives, Planning & Zoning representatives and representatives of City Council and myself as representative of the property owners. At that time an agreement was reached on the final wording of the River District in the new Unified Development Ordinance. At that time I agreed to encourage the river property owners to work with me and the various groups to plan and improve the riverfront. In January at the urging of members of the RiverLink organization, Planning & Zoning changed the permitted use portion of the ordinance to include much more restrictive language without consulting the river property owners. Over sharp protest from myself as a representative of the property owners, City Council saw fit to pass this new language into the ordinance. The

papers have been full of reports of the visits that you and other river advocates have made to San Antonio, Charleston, Chattanooga and the glowing results about their beautiful revitalized riverfronts. I can tell you that when these cities began to even think about revitalizing their riverfronts, the first thing that the Mayors and the City Council did was to go to the property owners and explain their vision and ask for their input, help and cooperation. Never has any Asheville Mayor or City Council person ever called a meeting of the river property owners to ask for our input or our concerns about the redevelopment of the riverfront. That includes you, Mr. Mayor, every City Council person, and it also includes especially Mr. Cloninger who appears to be the most passionate advocate of all of you for river revitalization. You have bent over backwards to get input from the businessman and property owners of Biltmore and West Asheville and you don't even paint a curb downtown without getting a consensus of every property owner in the downtown district. I heard more concern here today about changing the name of the Symphony Hall, or Thomas Wolfe, than was given to this drastic change that affects all of the river property owners. You hold your Council meeting in every neighborhood in town begging for input, but you have never been to the river. The reason for your apathy about the river is that you do not own property in the river. You do not live in the river and you do not work in the river. You have never bothered to find out that we are the same kind of hard-working, solid citizens, civic-minded that exist in the rest of this City. You have decided in advance that we would not cooperate. You have used RiverLink as your Trojan horse and have decided to take whatever you wanted by edict and fiat. Your latest act of changing the permitted use section of the UDO ordinance in a manner that was contrary to the agreement that was made with the representatives of RiverLink, Planning & Zoning, City Council and myself, representing the river, you have forced us to fulfill this prophecy. The river property owners have come here today, not to beg or petition, but to let you know where they stand in regard to the action that you have taken. I will now speak only for myself, Jerry Sternberg, property owner. Unless you change the ordinance back to read that any use not prohibited by this short-list of uses that was in the original draft, plus the additional prohibition of an asphalt plant is allowed, I will not cooperate in any manner, shape or form with any part of the river revitalization project."

Mayor Martin commented that there has never been pressure from City Council regarding this issue. What Council did do, however, is to encourage people who are property owners down by the river to sit down and talk and try to hammer out an agreement. That, he felt, was asking for some comment. There is no apathy here. City Council is very concerned about future development of the river as well as all areas of this community. We think that the river is a very important asset that we have in this community and in many cases is underutilized and, in other cases, neglected. But, we want to be sure that it is included in any further development and we are interested in what the property owners have to say.

The following individuals spoke in support of the comments made by Mr. Sternberg:

Mr. Ben Slosman
Mr. Johnny Penland, Penland Auction on Craven Street
Mr. Ray Owen, property owner down on the River
Mr. Arron Spears, Blue Ridge Metal Recycling
Mr. Jerry Dave, President of Dave Steel Company
Mr. Charles Messer, owner and operator of Western Carolina Livestock Market located on the west bank of the River

Ms. H. Green, new property owner of The Candle Station on the River
Mr. Bob Jolly
Mr. Albert Sneed
Mr. Jerry Bailey, read a letter from the property owner at 174 Haywood Road
Mr. Dale Helton, representative of Asheville Waste Paper
Mr. Chris Peterson, property owner on the River
Mr. Bill Britt, Britt & Tilson Glass
Mr. Harley Dunn, River Bend Business Park
Mr. Alan Haight, property owner on the River

Mr. Doug Wilson, incoming Chairman of RiverLink, responded on the agreement Mr. Sternberg spoke about. He presented City Council with information going back to October 22, 1996, when the River District zoning was first discussed in a meeting with Mr. Sternberg, Planning staff, Ms. Karen Cragnolin and Councilman Cloninger. Discussion centered around the grandfathering provision. Mr. Sternberg's letter to his group indicated that he was surprised to learn everything is grandfathered. The UDO applied to new construction. He included the minutes of RiverLink's Board of Directors where the report from that meeting was that they were looking forward to working together with Mr. Sternberg and his group. Mr. Sternberg sent a letter to Ms. Cragnolin that day which talked about his surprise to learn that the UDO applied to new construction - everything is grandfathered. The UDO now provides mixed use. Our Board has never voted on any agreement with Mr. Sternberg, City Council or the Planning & Zoning Commission regarding the exact wording of the UDO. He has researched every Board meeting where it was discussed and cannot find where any agreement was entered into. Mr. Sternberg's letters have accused RiverLink of breaching these agreements. The 27 member Board of Directors have discussed this with no position on the UDO until the final resolution they passed endorsing the language put forth by the Planning & Zoning Commission for permitted and non-permitted uses with the amendment of conditional use review for anything that falls in the cracks. RiverLink would like many more restrictions in the UDO, but it is a reasonable compromise that they think is in the best interest of the City of Asheville and the River District.

Mayor Martin asked Planning & Development Director Julia Cogburn to respond to a concern Mr. Messer addressed. Ms. Cogburn said that in terms of permitted and prohibited uses in the River District, if individuals do not see a use on the permitted list that they would like to see on the permitted list, that issue should be raised before Council for consideration to place on the permitted list.

Mr. Sternberg explained his reasoning why he felt Ms. Cogburn's response was not acceptable. He felt it was not a good idea to get specific with what is permitted, because you cannot foresee what will be invented in the future. He said that in the October 1996 meeting, RiverLink representatives never mentioned that they had to take this back to their Board of Directors because they couldn't negotiate. He recalled asking if there was anything else that they wanted to change and received no response.

Ms. Cogburn said that Council indicated they wanted staff to re-look everything that was permitted in all the other uses to make sure that they had not left anything out. She said that Mr. Sternberg is correct that if something is not on the permitted list or the prohibited list or the conditional use considerations (which is every other use that is allowed anywhere else), it would not be allowed and would require a text amendment. Basically, however, this is the most

comprehensive list of any district in terms of really covering every single use that they can imagine at this point in time. Again, if there is something that they have forgotten, they would be glad to look at that, if Council directs.

Mr. Lloyd Sigman, Chairman of RiverLink, stated that they feel they never reached any kind of agreement about the prohibited/permitted use issue. He felt that Council should be guided about what they feel is the best for the River District and the entire population of the City of Asheville. That is their motivation. He spoke in support of RiverLink's position.

Councilman Worley spoke in support of RiverLink but also recognized that the dreams for the River has to be a collaborative effort. That collaborative effort cannot take place without the spirit of cooperation among all the parties involved. He felt the River Committee that met did come up with language that, after a number of discussions, was acceptable to all the parties involved. That certainly created the perception of an agreement. He recognized that changes came about when representatives of RiverLink requested the Planning & Zoning Commission to make some changes and the Commission did, in fact, make some changes based upon those requests. He think what happened, that created the problem, at that point in time, is those changes took place without the input of all the parties involved. That is where the mistake was made. He did not support the adoption of the changed language but was pleased to hear that discussions will be taking place between Mr. Wilson and Mr. Sternberg. He hoped everyone will keep an open mind to consider changes and compromises that will include all the parties.

Councilman Skalski agreed with Councilman Worley and felt there are many groups in Asheville that feel like they've been "steamrolled". He didn't realize there was this much division on this issue and wanted all the parties involved to have a say as to how that should be developed. He noted that there is no language in the UDO to allow people to engage in an on-going planning process.

Upon inquiry of Vice-Mayor Field, City Attorney Oast explained that as the proposal is right now, any use allowed elsewhere in the ordinance would be permitted by conditional use permit.

B. GROUP DEVELOPMENTS

On May 7, 1991, City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on May 7, 1997:

Volunteers of America Elderly Housing

Ms. Erin McLoughlin, Urban Planner, said that the proposal is for a 51 unit elderly housing development to be located at 650 Caribou Road.

The proposal is for a two story, 51 unit elderly housing development. The parcel is zoned R-2 (low to medium density residential). The project meets all zoning, parking, and landscaping requirements. Letters of approval have been received from the Water Resources Department, the Fire Department and MSD.

Staff has received no comments in opposition to this group development.

The Planning & Development Department staff recommends approval of the group development with no conditions.

At their May 8, 1997, meeting, the Planning and Zoning Commission voted unanimously to recommend approval the group development with no conditions.

Vice-Mayor Field moved to set a public hearing on May 27, 1997, at 5:00 p.m. in the Banquet Room of the Asheville City Council to consider the request by the applicant for the City Council to determine the parking requirements for the Volunteers of America Elderly Housing Project (reduction of 38 parking spaces). This motion was seconded by Councilman Worley and carried unanimously.

Stockyard Mini-Warehouses

Mr. Carl Ownbey, Urban Planner, said that the proposed development is for 7 mini-warehouses and an office on 4 acres of an 11 acre tract of land located off Craven Street in West Asheville.

On April 7, 1997, the Planning Department received the site plan for the proposed mini-warehouses. The proposed project will be seven buildings (54,220 square feet) and an office building. The site plan was presented to the Technical Review Committee on April 14, 1997, for their comments.

On May 7, 1997, the Planning and Zoning Commission ("Commission") reviewed the site plan and opened the meeting for public comment.

The Commission voted unanimously to approve of the project with the following four conditions: 1) submittal of and erosion control plan, 2) acquisition of a driveway permit, 3) letter(s) on water and sewer availability, and 4) compliance with Section 30-3-14(G) of the ordinance.

The Planning Staff and the Commission recommend the approval of the Stockyard Mini-Warehouse with the four conditions.

Upon inquiry of Councilman Hay, Senior Planner Gerald Green explained what the UDO would do to this particular zoning.

Council accepted the report of the Planning and Zoning Commission with the above condition, thereby approving the project by taking no action.

C. UDO MAPPING

Ms. Susan Andrew requested that a section in Kenilworth (roughly Beaucatcher Road to the east and north, Aurora to the west and south, and Kenilworth Road completes the circle) be changed from the proposed RM-6 to RS-4.

Mr. Craig Justus, attorney representing the Hildebrand family, requested Council zone the Hildebrand properties off of Tunnel Road to Office Business, not RM-16.

Mr. Richard Hall, 414 Beaucatcher Road, requested that his property be zoned from RM-6 to RS-4 and that Council not rezone the

Hildebrand property Office Business. He felt that both sides of Beaucatcher Road should remain a contiguous part of the neighborhood.

Ms. McClure, homeowner on Beaucatcher Road, requested her neighborhood remain residential and not rezone the Hildebrand property Office Business.

Mr. Luke Carpenter, Treasurer of the Kenilworth Residents Association, requested Council to support rezoning of both sides of Beaucatcher Road to RS-4.

Ms. Jane Hildebrand, resident of Chunns Cove, requested that her properties off Tunnel Road be zoned Office Business, not RM-16.

A resident on Beaucatcher Road hoped Council would keep his neighborhood zoned residential and not zone the Hildebrand property Office Business.

Mr. Brian Peterson, speaking on behalf of the Vermont and Brevard Avenue Neighborhood Association, requested Council to change the area around Brevard Road, Vance Crescent Extension and Vermont Avenue and the cross streets from the RM designation to RS-8.

Mr. James Beck, property owner of 31 acres on Deaverview Road, requested his property be zoned from RM-16 to CI.

Mr. Maude King, resident on Deaverview Road, supported Mr. Beck's request that his property be zoned from RM-16 to CI.

Mr. David Coffey, property owner on Deaverview Road, supported Mr. Beck's request that his property be zoned from RM-16 to CI.

Mr. Luke Carpenter, Treasurer of the Kenilworth Residents Association, requested Council change the RM-6 zoning in Kenilworth to RS-8.

Ms. Bernie Wolfe, resident in Albemarle Park, reminded Council the area residents are working on a Small Area Plan for Charlotte Street.

D. CLAIMS

The following claims were received by the City of Asheville during the week of April 18-24, 1997: Bobby Lawhorn (Water), American National Can (Water), Vince Wroblewski (Water), Gwendolyn Peay (Water) and Gene Cline (Water).

The following claims were received during the week of April 25-May 1, 1997: Little Caesar Pizza (Water), Bruce Hertzberg (Streets) and Judy Dawkins (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

WORKSESSION - UNIFIED DEVELOPMENT ORDINANCE

Mayor Martin recessed the meeting at 7:44 p.m. and announced that City Council will hold a worksession beginning at 8:25 p.m. in Room 623 of the City Hall Building to discuss the new zoning maps for the Unified Development Ordinance.

Attached as Exhibit "A" is a three-page spreadsheet which City Council had before them as the worksession proceeded. The spreadsheet

contains suggested revisions in specific categories with the Planning & Zoning Commission's recommendations noted.

On the first page of the spreadsheet, Nos. 24-36 are items that the Planning & Zoning Commission took up in an earlier worksession but did not vote on at their regular May 7, 1997, meeting. City Council asked that Nos. 24-36 be placed in a new category entitled "UDO Map revision requests with changes recommended by staff with consensus of the Planning & Zoning Commission."

Ms. Jane Mathews, Planning & Zoning Commission member, stated that there was an error in the Planning & Zoning Commission's vote on No. 19 - it should not be 5-0, but 4-1. She also pointed out that the Commission did vote on the items on the second page of the spreadsheet but the votes are not recorded on what Council has before them today. Ms. Cogburn apologized for the oversight and called out the votes.

City Attorney Oast said that all votes are informal and non-binding. The votes taken are just to determine what recommended changes go forward to the public hearing on May 27 for further consideration.

With the use of maps, City Council discussed and City staff answered various questions from City Council with regard to the following items listed on the first page of the spreadsheet which contain "requested changes recommended by both staff and the Planning & Zoning Commission". It was determined that items not discussed in that category would be included in the draft list of map amendments proposed by City Council which will be presented to the Council on May 27. The following numbers were discussed with the final City Council vote after each:

No. 10	Consensus
No. 12	5-1 (Skalski voting "no" and Cloninger not voting)
No. 16	Consensus
No. 17	6-1 (Skalski voting "no")
No. 18	4-3 (Cloninger, Sellers & Skalski voting "no")
No. 19	Consensus
No. 23	6-1 (Hay voting "no")

Mayor Martin then asked for comments from the public as they relate to Nos. 1-23.

Ms. Roberta Greenspan, Madison Avenue resident, requested City Council not zone No. 12 to Office, but keep it RM-8. She felt that RM-16 was not appropriate zoning in Nos. 16, 17 and 18 (especially with the lack of parking).

Upon inquiry of Ms. Leni Sitnick, Councilman Worley said that once the Charlotte Street Small Area Plan is adopted it would be applied to the UDO as a transition overlay.

Mr. Richard Kerber, resident on Albemarle, felt Council should not be changing the designation of RM-8 to RM-16 in Nos. 17 and 18 in the midst of the Charlotte Street Small Area Plan process. He would have liked to see more appreciation for the community process that is going on in that area.

Mayor Martin then asked for comments from the public as they relate to Nos. 37-64 located on the second page of the spreadsheet which contain "requested changes where no change is recommended by the staff and the Planning & Zoning Commission".

Several unidentified residents spoke against rezoning the Charlotte Street area to CBII. An unidentified man felt that there was disappointment in the Charlotte Street community with the zoning in the area to CBII. He felt it looks like it's not an action in support of the community.

Ms. Leni Sitnick felt there was too much of a gap between CBI (12,000 square feet) and CBII (45,000 square feet) in the Charlotte Street area. She wondered if there could be some kind of interim measurement that is more appropriate for the area.

When Councilman Cloninger asked for an approximate timeframe on getting the overlay completed on Charlotte Street, Ms. Cogburn said that staff can do a draft and make recommendations to Council within two-three months, however, the process will take longer trying to work out issues of debate, etc.

VII. ADJOURNMENT:

At 10:00 p.m., Mayor Martin adjourned the meeting.

Councilman Worley moved to continue this worksession following the Tuesday, May 20, 1997, formal worksession which begins at 3:00 p.m. This motion was seconded by Councilman Skalski and carried unanimously.

Magdalen Bourloon
CITY CLERK

MAYOR

UDO Map Revisions, Changes Recommended by Staff and P&Z

	Location	Map #	Received from:	Requested change	Staff and P&Z recommendation	P&Z vote
1	Park Av.	9631-08	Lou Hedricks	CI to "residential"	change lot adjacent to her house	5 to 0
2	Parkway Forest	9668-10,11,14,15	Thelma Hughes	RS-8 to RS-4	change as requested, subdivision meets RS-4 standards	5 to 0
3	Utopia Rd.	9659-10	Jane Penland	RM-6 to RS-2	change upper Chunn's cove to RS-4 and RS-2, steep, poor access	5 to 0
4	Blake Mtn. Estates	9655-13	Tim Davey	RM-6 to RS-2	change, unifies zoning of property	5 to 0
5	Cornell St.	9657-17	Steven Bladash	RS-4 to Office	change, proximity to commercial and office development	5 to 0
6	87 Riverside Church Rd.	9639-10	Roy Chapman	MHRC overlay	change, existing manf. homes in area, adjacent to MHRC	5 to 0
7	Malvern Hills	9628-19	Linda Fursell	RS-8 to RS-4	change, existing lots do meet RS-4 requirements	5 to 0
8	Falconhurst	9638-09	Dennis Campbell, Lane Reed Jonathan Guest	RM-8 to RS-8	change, rational RS-8 district results in few nonconformities	5 to 0
9	Vermont Av.	9638-13	Brian Peterson	RM-8 to "single family"	change, rational extension of RS-8 district unifies zoning on Vermont	5 to 0
10	Vivian Rd./Nantahala St.	9649-05	Pam Turner, UNC-A	RM-8 to INST on Vivian Rd.	change, to unify zoning of UNC-A property	5 to 0
11	Grove Park	9649-08	Glenda Burgin, Dennis King	change Resort east of Macon	change, more logical zone pattern, proximity to residences	3 to 1
12	Broad St.	9649-14,15	Denny Martin	change RM-8 to Office s. of Broad	change, more logical zone boundary	4 to 1
13	Ottari Rd.	9740-18,19	Bill & Margaret Mull	RM-8 & RS-8 to RS-4	change area south of Ottari to RS-8 to match existing development	5 to 0
14	Tunnel Rd.	9658-12-87-6254	City of Asheville	RS-4 to CB1	change, East Asheville Recreation Center	5 to 0
15	1 Logan Av.	9638-12-86-7975	Chris Peterson	RM-8 to commercial	change to River District, eliminates nonconformity	5 to 0
16	E. Chestnut St.	9649-15	John Killian, Bill Bass	RM-8 to CB1	change to CB1, eliminates nonconformity	5 to 0
17	E. Chestnut St.	9649-15	John Killian, Bill Bass	RM-8 to RM-16	change to RM-16, high density existing development	4 to 1
18	Crescent St. area	9649-15	John Killian, Bill Bass	RM-8 to RM-16	change to RM-16, area from Broad St. to Lennox St., east of Madison St	4 to 1
19	Louisiana Av.	9639-17	property owners	RM-6 to office or commercial	change to Office, property along Louisiana Av.	4 - 1
20	I-40 / NC 191	9627-12-97-5330 9637-05-07-1739	Biltmore Farms, Inc.	RM-8 to HB	change to HB	5 to 2
21	Trinity Industries	9639-14	Benson Slosman	INST to IND	change parcel recently added to site to IND	7 to 0
22	Biltmore area	9648-20	Benson Slosman	extend CI to Stoner Rd.	extend CI to existing LI boundary	7 to 0
23	Merrimon Av.	9649-06,10	Rhodes	RM-8 to RM-16 and CB1	change to RM-16	4 to 3
24	Hazel Mill Rd. (5 lots)	9639-17	property owners	RM-6 to Office	change to Office	No specific
25	Old Haywood Rd.	9628.17	property owner	RM-8 to HB	change as requested leaving 100' buffer of RM-8	No specific
26	Westwood / I-240	9638-07-78-2505	property owner	not currently zoned, zone HB	change to HB	-
27	Wood Av.	9658-14-32-7900	property owner	River to CI	change to CI	-
28	Yorkshire St.	9647-12-85-6923 9647-12-86-5192	property owner	RS-8 to INST	change to Office	-
29	304 Cisco Rd.	9659-15,19	property owner	RS-2 to RS-4	change to RS-4	-
30	Oteen Church Rd.	9668-10,14	property owners	RM-8 to RS-2	change to RS-2	-
31	Iris and Shady Oak Dr.	9647-08,12	property owners	RM-8 to RS-8	change to RS-8	-
32	Wedgefield Dr.	9627-07	property owners	Office to commercial	change to CB1	-
33	Hazel Mill Rd.	9639-17, 9638-05	property owner	RS-2 to RM-6	change to RM-6	-
34	Beaverdam Rd.	9750-09	property owners	NB to RS-4	change to RS-4	-
35	West Chapel/Oakley School Rd.	9657-18-41-6459	property owner	RS-8 to IND	change to IND, eliminates nonconformity	-
36	Hendersonville Rd.	9654-05,9655-17	property owners	INST to HB	change to HB	-

Exhibit "A"
5-13-97

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UDO Map Revision Requests, No Change Recommended by Staff or P&Z

	Location	Map #	Received from:	Requested change	Staff and P&Z recommendation	P&Z Vote
37	Kenilworth Forest	9658-09,13	Fred Martin	RS-8 to RS-4	no change, many lots do not meet RS-4 widths	consensus
38	West End/Clingman	9638-08; 9648-05	Donna Anderson	CI and INST to "residential"	no change, mapping follows 2010 Plan	7-2
39	West End/Clingman	9638-08; 9648-05	Scott Dedmon	CI to "residential"	no change, mapping follows 2010 Plan	7-2
40	Clingman Av.	9648-05	Freddie Mitchell	Boozer property to "commercial"		consensus
41	Oakley	9657-07,08	Henry Mitchell, Derwin Williams	RS-8 and RM-8 to RS-4	no change, many lots do not meet RS-4 widths	4-1
			Paul Reynolds, Nancy Williams			
			Jack Benington, Bill Keller			
42	South End	9648-13,14	Jennifer Scovill	RM-8 to "office or commercial"	no change, proximity to single family residential	5-0
43	Haw Creek	9658-08	Barber Melton	CB1 to NB Beverly&New Haw Crk.	no change, would create nonconforming business	7-2
44	Tunnel Rd.	9658-08; 9668-05	Dorothy Olson	RM-6 to "commercial"	no change, strip zoning, proximity to residential uses	5-0
45	Arco Rd.	9658-07,11	Dan&Kristen Garner-Zorn	RM-6 to RS-4	no change, existing multi-family in area	5-0
46	Royal Pines Rd.	9654-10	Roger Chipman	RS-4 to "commercial"	no change, recent rezoning petition denied	consensus
47	Peach St.	9628-14	Don Icenhower	MHRC overlay	no change, few existing manf. homes in area	consensus
48	Pond Rd.	9627-17	Lucy Crowell	RS-2 to Industrial	no change, flood plain property adjacent to residential, 2010 Plan	consensus
49	jurisdiction wide	*	David Nash, Pisgah Legal Ser.	more RM-8	no specific location	consensus
50	West area	?	Earl Cobb	requested more RS-8	no specific location	6-0
51	Deaverview Rd.	9628-10	Jim Beck	RM-16 to CI	no change, recent rezoning denied, poor industrial access, residences	5-0
52	UNC-A area	9649-05	Pam Turner, UNC-A	"multi-family" in Edgewood Rd. area	no change, further study recommended	3-2?
53	Hill St.	9649-17	Mary Jo Brezny	change Office district to residential	no change, poor location for residential development	3-2
54	Grove Park	9649-07,11	Arnold Green	change Resort on GPI golf course	no change, part of GPI resort	4-1
55	Charlotte St.	9649-15	Nora Bradsher, Mary Parker	change CB11 to CB1 on Charlotte St.	no change, would create nonconforming size buildings	5-0
			Janet Hart, Andrew Hart			3-2
			Peggy DuBell			
56	853 Merrimon Av.	9740-18	Pauline Kaltsunis	change RM-8 to CB11 on Ottari Rd.	no change, recent rezoning denied, commercial encroachment	4-1
57	Elida Home	9629-14	Chamber of Commerce	change Institutional to Industrial	no change at this time, further study needed	5-0
58	Buncombe Co. Schools Admin.	9639-14	Chamber of Commerce	change Institutional to Industrial	no change, inappropriate zoning for existing use	consensus
59	Rock Hill Rd.	9657-18-30-6758	Rellie Hollifield	MH overlay for lot	no change, spot zone, larger area a possibility	5-0
60	Pond Rd.	9627-15-53-8184	Ward McIntosh	RS-2 to CI	no change, 2010 Plan	4-1
61	Pond Rd.	9627-14-42-1999	Delozier	RS-2 to CI	no change, 2020 Plan, proximity to residential	3-2
62	Pisgah View Rd.	9628-09	Doug Linberry	MHRC overlay	no change at this time, further study needed	4-1
63	Sweeten Creek Rd.	9656-10-35-7314	Deborah Terrell	RM-16 to commercial	no change	7 to 0
64	Old County Home Rd.	9629-18-31-5958	Bruce Moss	RM-6 to commercial	no change, residential area	7 to 0

	UDO Map Revision Requests, Staff and P&Z Recommendations Differ						
	Location	Map #	Received from:	Requested change	Staff recommendation	P&Z recommendation	P&Z vote
1	Kenilworth	9648-08.12; 9658-05.08	Susan Andrew et al	RM-8 and RM-16 to RS-4	no change, mixed use and lot sizes	change area bounded by Springdale & Aurora to RS-8	3 to 2
2	Tunnel Rd.	9658-05, 9648-08	Craig Justus, Jane Hildebran	RM-16 to OB	no change, poor access, proximity to residential uses	change to Office/Business (OB)	4 to 1
3	Brevard Rd	9627-08.12	Bill Frue, rep Ingles	RM-8 to RB	change, frontage to HB, rear to RM-16	change entire property to Regional Business (RB)	4 to 1
4	Sand Hill Rd.	9617-16-83-0548, -0846	Tom Plemmons	requested CI	no change, spot zoning, residential area	change to Commercial Industrial (CI)	4 to 1
5	I-40/US 19/23	9617-07.06	George Saenger	HB and RM-8 to IND	no change, proximity to residential areas, poor industrial access	change to Commercial Industrial (CI)	4 to 1
6	Pond Rd	9627-19	Kathryn Trueblood	RS-2 to IND	no change, flood plain, proximity to residential, 2010 Plan	change to Commercial Industrial (CI)	4 to 1
7	Leicester Highway	9629-18	Bob Ledford, Bruce Moss	RM-8 to "commercial"	change to Office, limits strip development, allows non-residential use	change to Community Business 11 (CB11)	4 to 1
8	Jackson Park/Woolsey area (incl. Sevier St.)	9648-05.06	Jim Siemens, John Quigley	change RM-8 to RS-8 and RS-4	change zoning on Edgewood, Maney and Fennar from RM-8 to RM-	change RM-8 area to RS-8, except block of duplexes at the SW corner of Barnard & Edgewood to RM-8, and the Mt. Trace Apts. on Sevier St.	3 to 2
			Ron Dame, Dee Murphy				
			Kathy Burrow, Mary Cramer				
			Laura Whitley, David Gould				
			David Whitley, Tom Muncy				
			Dennis Campbell, Randy Bernard				
9	Gertrude St.	9649-11	Joe Adams	RM-8 to single family	no change, would result in nonconformities	change Gertrude St. including existing apartments RS-8	3 to 2
10	Beaucatcher Mtn.	9648-8.12; 9649-20; 9658-9.13	Pat Whalen	change ridge from RS-2 to RM-8	no change, conflicts with goal of 2010 Plan for sensitive areas	change to RM-8	3 to 2
11	Arlington St.	9649-15	Drew Nichols, Janet Hart	change portion of street from Office to RS-8	Office	change to RS-8	7 to 0
12	Old County Home Rd.	9629-18-31-5705	Bruce Moss	RM-8 to commercial	RM-8	change to CB11	5 to 2
13	Albemarle Rd &Pl.	9649-15	Janet Hart	RM-8 to RS-4	RM-8	change to RS-8	4 to 3
14	Blue Ridge Av.	9638-08	Dennis Campbell	RM-8 to RS-8	RM-8	change to RS-8	7 to 0
15	Vance Crescent, Brevard Rd.	9638-13	Brian Peterson	RM-8 to RS-8	RM-8	change to RS-8	7 to 0
	Olney Rd., Rex St., Davenport Rd.,						
	Vance Crescent Ext., Sand Hill Rd.						
	Map Changes Recommended by Staff not Reviewed by P&Z						
1	Beaverdam Rd.	9740-14.15	Asheville Catholic School/Church	from Office to allow larger buildings	change school property to RM-8, vet property to CB1		
2	Arlington St.	9649-15-72-3700	Jeff Haese	from RS-2 to RS-8	change, more consistent boundary		

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Tuesday - May 20, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Provisions for Possession & Consumption of Malt Beverages and/or Unfortified Wine at Asheville Downtown Association's 1997 Events

Summary: The Parks and Recreation Department recommends that the possession of open containers of malt beverages and/or unfortified wine and the consumption of malt beverages and/or unfortified wine be allowed for the 1997 events of the Asheville Downtown Association at the locations and times specified.

For many years, the Asheville Downtown Association has co-sponsored with the City of Asheville events to bring both the public and visitors to the Downtown area. During these years, the events were facilitated by the City Development Office. Beginning in 1997, these events will be facilitated by the Parks and Recreation Department. These events include: *Moonlight Over Downtown*, *Honda Hoot Public Rally*, *and four Downtown After Five activities*. The Asheville Downtown Association has requested permission to allow possession and consumption of beer and wine during these events as they have been allowed in the past.

The Asheville Parks and Recreation Department recommends approval of this request.

Budget Amendment re: Fuel Cost Increases

Summary: Consideration of an amendment to the Fleet Management Fiscal Year 96-97 budget increasing motor vehicle fuel expenditures.

The Fleet Management Fiscal Year 96-97 fuels budget was developed in January 1996 based on an assumed fuel purchase price of $0.90 per gallon throughout the entire year. Prices have significantly increased since that time. Actual prices paid during the year have never dropped as low as the budgetary assumption and have been as high as $1.1495 for unleaded, $1.045 for kerosene and $0.979 for diesel.

The budget amendment adds $130,000 to the motor vehicle fuels expenditure line item to enable continued bulk fuel purchases for the remainder of the Fiscal Year. The offsetting revenue is from fuel prices charged to the various City departments each time they refuel their vehicles at the City's service station. The prices charged the departments have been adjusted throughout the year to parallel the actual costs of each bulk fuel purchase by the City.

Budget Amendment re: Funding for Rescue Squad

Summary: The Asheville Area Rescue Squad has requested $ 5,625 from the City of Asheville as the remainder of funding approved for the agency for fiscal year 1995/96.

The City Council Outside Agency Committee met to discuss the funding request of $ 5,625 from the Asheville Area Rescue Squad. The Asheville Area Rescue Squad had been approved by the City Council for a total of $11,250 in outside agency funding for fiscal year 1995/96. The Rescue Squad had complied with the terms of the contract on a timely basis for the first two quarterly payments and received payments totaling $ 5,625 but failed to submit required reports for the final two quarters of the fiscal year in a timely manner. The Rescue Squad has since submitted such required reports and is requesting payment for the two last quarters of the 1995/96 fiscal year. As those funds are not appropriated in the current year, an appropriation of General Fund Contingency is required to meet the funding request.

The City Council Outside Agency Committee recommends the City Council approve the $ 5,625 funding request from the Asheville Area Rescue Squad for the fiscal year 1995/96. This appropriation will leave a General Fund Contingency uncommitted balance of $46,653.

CERTIFICATION OF LITTLE LEAGUE COACHES

Summary: The Parks and Recreation Department requests City Council's approval of coaches in the six Little League programs co-sponsored by the City of Asheville to be covered under the City's general liability and workers' compensation program.

During the month of March, all six Little League associations co-sponsored by the Parks and Recreation Department conducted a series of clinics in conjunction with Parks and Recreation staff. During these clinics, each coach was given instruction in regard to proper conduct for dealing with youth, emergency first aid instruction, general philosophy of the Parks and Recreation Department, as well as on-the-field skills training. A list of coaches from the various organizations who completed the training is available. The Parks and Recreation staff is recommending that City Council approve this list of coaches so they can be covered under the City's general liability and workers' compensation program as volunteers for the City.

The Parks and Recreation Department requests City Council's approval of the list of Little League coaches to be covered under the City's general liability and workers' compensation program.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

FIRE SAFETY TEAM LX PRESENTATION

Fire Chief John Rukavina introduced the Asheville Fire Department's Legacy of Excellence ("LX") quality improvement Safety Team who presented a summary of the team's work on a critical firefighter safety issue.

Just over one year ago, the Asheville Fire Department's Safety Team made a presentation to City Council on its work to improve use of "personal alert safety system" ("PASS") devices. Upon completion of that project, the Safety Team moved on to study and develop a firefighter accountability system for the Asheville Fire Department.

Almost by definition, an emergency scene is chaotic. Because of the combination of chaos and danger, emergency incident commanders must know the whereabouts and status of all firefighters at an emergency scene. If a new emergency suddenly occurs--collapse of a structure in

which firefighters were fighting fire, for example--the incident commander must have some means of accounting for personnel so if a firefighter is in trouble, a rescue action plan can be developed and implemented.

The Safety Team has developed a "fireground passport" system in response to this accountability need.

The "passport" system concept is simple: Each firefighter carries a nametag with a Velcro surface on the back. As each firefighter enters an emergency operations area, that firefighter gives the nametag to the incident commander, who then attaches it to a "status board" that indicates the firefighter's work assignment and general location. At "routine" emergencies, the incident commander uses the status board to periodically check on the status of firefighters in each operation area. If an unexpected emergency occurs--a structural collapse, for example--the incident commander uses the status board to structure a "last-known location" system, and, if a firefighter can't be accounted for, to organize a search-and-rescue effort.

Implementation of the team's work will be completed by July 1, 1997.

Mayor Martin thanked the Committee members for a job well done.

COMMUNITY RELATIONS COUNCIL REQUEST FOR DESIGNATION OF EEOC REFERRAL AGENCY

Mr. Robert Smith, Executive Director of the Asheville-Buncombe Community Relations Council ("CRC"), said that they are seeking to become an EEOC referral agency. This would allow the CRC to investigate and resolve unlawful employment discrimination complaints in Asheville and Buncombe County in the same manner in which the federal employment agency in Charlotte does.

The advantage to both the employees and employers will be that they ware a local agency and are therefore easier to locate and more responsive to their concerns. The CRC will save them both time and money in the processing of their individual cases. The CRC also has a reputation of fairness and impartiality to all parties which is another advantage to local control.

There has been a number of informational meetings with both large and small employers to solicit their input and respond to their concerns. As of April 23, there has been support for the CRC in this endeavor.

On Wednesday, May 19, 1997, the CRC held a public hearing to both inform and solicit comments. At the public hearing, all of the comments which were made were positive.

There is a $50,000 start-up grant available. In beginning a designated EEOC agency, the CRC will be compensated $500 per case for the cases they investigate. They felt this compensation would enable them to stabilize their funding. The CRC would exempt the City and County administrations from this since they both have a process in place.

The CRC is requesting that the City Council and the Buncombe County Commissioners request that our local delegation to the General Assembly request enabling legislation for a local employment bill for Asheville and Buncombe County and that the CRC become the designated

agency to enforce equal employment in Asheville and Buncombe County. He then referenced a draft copy of the Durham Bill.

He noted that even though he has not heard back from Buncombe County on this request, he hoped that Asheville would take the lead and ask for this designation and hopefully the County will see the CRC has the City's support and join in.

Upon inquiry of Mayor Martin, City Attorney Oast said that the deadline for introduction of local legislation, March 27, has passed for this session.

Councilman Cloninger suggested the CRC obtain written endorsements of this concept from Western Carolina Industry, Chamber of Commerce, etc. He felt the legislature might take more of an interest with formal endorsements.

Mayor Martin asked the City Attorney to investigate if a conflict of interest exists since the City does appropriate funds to the CRC. Councilman Worley also questioned how this relates to the federal legislation.

Councilman Hay spoke in support the request of the CRC.

Mayor Martin asked that the record show that City Council has received this information, has given instructions to the City Attorney, and instructed the City Manager to place this item on the June 10, 1997, City Council agenda.

PROHIBITION OF ANIMALS IN RIVERSIDE CEMETERY

Mr. Irby Brinson, Parks & Recreation Director, said that the Parks and Recreation Advisory Board is recommending changing the City Code of Ordinances to prohibit animals at Riverside Cemetery.

Mr. David Olsen, Riverside Cemetery Manager, explained that over the past few years, a number of problems have occurred with animals coming into Riverside Cemetery. Problems range from dogs interrupting services to owners not cleaning up after their dogs. Because Riverside Cemetery needs to remain a reverent and respectful place for family and friends to honor the deceased, the Parks and Recreation Advisory Board recommends that animals be prohibited in the Cemetery. In addition, a number of people have been attacked by dogs while on the Cemetery grounds. He felt there were other convenient locations, other than the cemetery, where people could walk their dogs. The revision to the Code of Ordinances should be added to the section dealing with cemeteries, specifically adding Section 5-11 to read as follows.

> "It shall be unlawful for an individual to allow, whether on a leash, running free, or under voice control, any animal on the grounds of Riverside Cemetery, whether in a car or on foot. This restriction should not apply to guide dogs in the possession of site impaired or hearing impaired persons."

In addition, we are recommending that "Riverside Cemetery" be added to the City Code of Ordinance 3-27, Subsection E. It should read:

> "It shall be unlawful for any person owning or having possession, charge, custody or control of an animal, wild animal or livestock, to take the animal, wild animal or

livestock into picnic areas, pond areas, Riverside Cemetery, and the children's play areas . . . ."

The Parks and Recreation Advisory Board recommends that City Council adopt the revisions to the City's Code of Ordinances to prohibit animals in Riverside Cemetery.

A responsible pet owner said that she has been walking her dog in the cemetery in the evenings when there are no funerals. She felt that most people who do walk their dogs are responsible pet owners. As she walks, she picks up trash and she felt that perhaps the presence of people walking their dogs might be deter drugs. She suggested a compromise of perhaps restricting the hours and places people may walk their dogs in the cemetery, with the demand that owners pick up excrement and keep their dogs on a leash.

Mayor Martin asked that the record show that City Council has received this information and instructed the City Manager to place this item on the June 10, 1997, City Council agenda.

COMPREHENSIVE PARKING STUDY

Mr. James Cheeks, Traffic Engineer, said that staff is requesting City Council to consider the selection a consulting firm to perform a Comprehensive Parking Study for Downtown, Biltmore Village and West Asheville.

The City of Asheville has requested proposals for a detailed analytical and comprehensive parking study reviewing existing and future parking needs of three areas of the City (Downtown, Biltmore Village, West Asheville). The study will provide an action plan that will address and include the following:

(1) the projected demand for parking;
(2) identification of and proposed locations for various parking improvements;
(3) feasibility analysis of the various parking improvements including financial plans utilizing various financial options;
(4) plans for mitigating impacts on traffic flow and surrounding neighborhoods;
(5) parking enforcement options;
(6) equipment needed; and
(7) overall implementation plans

Partial funding for this project will come from the Unified Planning Work Program of the Asheville Urban Area Metropolitan Planning Organization, City of Asheville, Buncombe County and private donations. The "Request for Proposal" (RFP) solicited by the City included input and data from City Staff, The Downtown Commission and the Asheville Downtown Association's Parking Task Force, the City of Asheville's 2010 Plan, South Pack Square Redevelopment Plan, the Asheville Area Transportation Improvement Plan, Biltmore Village Development Plan and the West Asheville Priority Setting Findings.

This process began in December 1996 as per direction from the City Council. A total of 55 RFP's were sent out across the country. Fourteen firms responded and seven firms submitted proposals. The following is a summary of the proposals received:

Rich	$39,500
Law	$45-90,000
McLaurin	$93,800
Wilbur Smith	$147,000
RBA	$62,000
Ramp Assoc.	$55,500
Carl Walker	$92,400

The proposals were reviewed by City Staff consisting of the Assistant City Manager, the Director of Public Works, the Planning and Development Director, the Finance Director, the City Traffic Engineer, the Parking Services Manager, and the Downtown Development Manager and members of the Parking Task Force and ranked to determine the three finalists to be interviewed. Carl Walker, Inc., Wilbur Smith Engineering and the RBA Group were the finalists shortlisted by staff.

Interviews were conducted with each of the three firms. It was determined, almost unanimously, that the Carl Walker, Inc. Team (consisting of Day Wilburn Engineering, Springsted Financial Advisors, A-1 Staffing and Personnel and Purcell and Associates Realty) was the most qualified firm that met the requirements of the RFP.

Carl Walker, Inc. has proposed to complete the study within 180 days for a fee of $92,400.00. This includes some modification to the base proposal amount concerning additional community meetings and a land-use survey of all commercial districts.

CARL WALKER PROPOSAL:

	If separated:	**Combined:**
Downtown Asheville	$ 62,300	
Biltmore Village	$ 22,000	
West Asheville	$ 22,000	
	$106,300	$ 91,200
Add'l meeting	$ 1,200	$ 1,200
Downtown	$107,500	$ 92,400

Based upon funding available from the Asheville Metropolitan Planning Organization in conjunction with funds from the City, the County as well as from private donations, adequate funds exist to perform the entire scope of the project in all three study areas.

Funding for this project is calculated as follows:

Carl Walker Proposal	$92,400.00
MPO - Work Program (80% State)	-73,920.00
(20% Local)	18,480.00
Solicit 50% Participation Buncombe County	- 9,240.00
	9,240.00
City of Asheville	- 9,240.00
	$ - 0 -

City staff recommends that the City Manager be authorized to enter into a contract with Carl Walker, Inc. for the amount not to exceed $92,400.00 to provide a comprehensive parking study for Downtown, Biltmore Village and West Asheville.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

RESOLUTION NO. 97-68- RESOLUTION ADOPTING THE ASHEVILLE STANDARD SPECIFICATIONS AND DETAILS MANUAL

Assistant City Manager S. Douglas Spell said that the Unified Development Ordinance (UDO) makes reference to a document containing design guidelines and technical specifications. This reflects staff's desire to prepare a formal document that would provide a resource to designers, developers and contractors involved in new construction or expansion of existing infrastructure.

He said that the Asheville Standard Specifications and Details manual has been prepared by City Staff. The preparation of this document has been coordinated by the Engineering Department and has been reviewed by various departments including Building Safety, Finance, Fire, Parks and Recreation, Planning and Development, Public Works and Water Resources. Staff comments were incorporated into a draft manual that was made available to the development community on April 15, 1997. Approximately 260 letters were mailed to businesses, developers, designers and contractors that had applied for related type permits or submitted plans to the City in the past three (3) years. In his letter, he requested these parties/individuals review the draft manual and forward written comments to his attention no later than April 25, 1997. These comments were reviewed by staff with concurring comments incorporated into the final draft for City Council review and consideration. Also, a public meeting was held on May 1, 1997, to review the document and receive comments. Staff will provide City Council a summary of the information received from the public comments.

The Asheville Standard Specifications and Details manual consists of design guidelines and technical specifications for construction related to streets, sidewalks, water systems, storm drainage, parking lots, and pavement structure. The City standards outline the minimum construction standards which would be allowed in the City limits and extraterritorial zoning jurisdiction. The standard specifications would be applicable on both public and private property. For example, private streets and parking lots would be required to meet minimum pavement structure requirements. The rationale for this is due to the safety to the public, as well as to meet a standard to accommodate delivery vehicles or fire trucks. As a second example storm drainage on private property would be required to meet City standards due to the adverse impact improperly sized or installed pipe could have on public right of way or upstream properties.

The Engineering Department would be the primary department responsible for enforcement of the City standards through the Construction Inspectors. The City Engineer would be responsible for any requested variance or deviation from the City standards, except where otherwise noted. In some cases such as waiving the requirement for sidewalks, the City Council would be the only authority that could grant any non-conformance to the City standards. Additionally, the City Engineer could make minor revisions to the City standards and would publish annual updates to the manual.

City staff recommends that the Asheville Standard Specifications and Details manual become effective on May 27, 1997, consistent with the effective date of the UDO. Following adoption of the Asheville Standard Specifications and Details manual, the Engineering Department would be responsible for the distribution of the manual. Copies will be available upon request for individuals/businesses to obtain a copy at a one time cost of $25.00. The manual will be in a three (3) ring binder and all updates will be available to individuals/businesses at no cost.

City staff recommends the adoption of the Asheville Standard Specifications and Details manual with implementation in accordance with the items reviewed in this staff report.

Mr. Spell noted that he did meet with Mr. Bob Selby, President of the Council of Independent Business Owners, earlier that day to discuss comments from the Homebuilders and Board of Realtors on the Manual. They were pleased that the City will review the Manual within the next 12 months.

Councilman Worley moved to waive the rules and take formal action on this item at this time. This motion was seconded by Councilman Skalski and carried unanimously.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 97-68 with the last sentence reading "Said manual shall become effective on May 27, 1997, which is consistent with the scheduled adoption of the Unified Development Ordinance, and will be reviewed within 13 months from the date of adoption". This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 69

TREE ORDINANCE AMENDMENT

Mr. Mark Combs, Public Works Director, said that the Tree and Greenway Commission has drafted changes to the current Code of Ordinances and unanimously requests adoption of the changes.

A subcommittee of the Tree and Greenway commission comprising members Henry Mitchell and Dennis Wilson, Council member Chuck Cloninger and support staff, drafted amendments to Chapter 20 (Trees) of the Code of Ordinances and request the formal adoption of the amendments. Mr. Wilson and Mr. Wilson outlined the major elements of the changes, which are as follows:

- *(20-1) **Purpose and Intent:*** Simplified and added "... to regulate the planting of new trees...encourage the protection of existing trees and shrubbery...to regulate the preservation, replacement and indiscriminate removal of trees..."
- *(20-3) **Tree Commission:*** New section establishing organization and membership of the Tree Commission
- *(20-4) **Definitions:*** Expanded to include terms (incomplete list) *caliper, diseased tree, historic tree, maintenance, regulated tree, replacement, unsafe tree.*
- *(20-5) **Administration:*** Responsibilities for key staff defined.
- *(20-6) **Permits and Review Required**:* Permit required for any work on trees located on city-owned property to include "...the removal and replacement of regulated and historic trees."
- **(ARTICLE II)** ***CITY PROPERTY:*** Regulates and requires permit for removal, destruction, pruning of trees or shrubbery; regulates construction work around trees/shrubbery; requires planting plan (with 6 succinct requirements); responsibility of owners to trim trees, etc. if projecting onto city property.

- **(ARTICLE III)** ***PRIVATE PROPERTY***: Controls removal of *regulated* or *historic* trees on private property with appeals process; City "...may cause or order to be removed any tree...which is unsafe"; City may spray or treat infected or infested trees; notification required.

- **(ARTICLE IV)** ***Inspection, Enforcement and Appeal***: Authorization to "...inspect areas subject to the provisions of this chapter."; Enforcement authority with appeal to "...appeals board from among the membership of the Tree Commission" (subsequent appeal to Superior Court); civil penalty of $100.00 established for each day with provision for appeals board to "...recommend that the amount of the civil penalty be modified as part of a negotiated settlement with the City."

In brief, the proposed amendments clearly define the authority and requirements of tree and shrubbery management on public lands, and regulate designated *regulated* and *historic* trees on private property (both the property owner and City Council must approve designation of such trees). It also clearly establishes the organizational make-up of the Commission and identifies the Commission as the appeals board for decisions rendered by staff.

In conjunction with the proposed changes, staff has developed an inspection report and permit system.

The draft as submitted represents a significant improvement to the current anachronistic code, and is consistent with other progressive municipalities with similar needs. Staff recommends the adoption of amendments to Chapter 20 (Trees) of the Code of Ordinances, and as amended by City Council.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda to set a public hearing for June 10, 1997.

BILTMORE VILLAGE HISTORIC DISTRICT STREET LIGHTS

Mr. James Cheeks, Traffic Engineer, said that staff is asking City Council to consider a contract with W. P. Law for the manufacturing 42 decorative street lights for the Biltmore Village Historic District.

The Asheville City Council has entered into an agreement with Biltmore Village Historic Museum Commission, Inc. as representatives of the Biltmore Village property owners concerning the purchase of decorative street lighting for 42 locations within the Biltmore Village Historic District in the scope of Phase 1 of this project.

The City has solicited bids for the manufacture of the decorative street lighting and has received 6 bids.

The lowest most reasonable bids that meet the City's and Museum's requirement was received from W. P. Law. Inc. from Greer, S.C. for a bid price as follows:

- 42 Cast Aluminum Decorative Street Light Poles, Lanterns and Lantern Brackets	$50,963.64
- 22 Cast Aluminum Sign Brackets and Frames	2,487.84
Total:	$53,451.48

The City of Asheville has received $20,000 from Biltmore Village Museum toward the purchase and installation of these 42 decorative

street lights and associated equipment and supplies as part of the Street Light Agreement. The Traffic Engineering Division has budgeted $70,000 for this project. Therefore, sufficient funds are in-hand for completion of Phase 1 of this project.

Staff recommends that the City Manager be authorized to enter into a contract with W. P. Law, Inc. to provide decorative street lighting for Biltmore Village Historic District as per the Street Light Agreement.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

OUTSIDE AGENCY COMMITTEE

Ms. Cindy Miller, Internal Auditor, reviewed the City Council Committee recommendations for the 1997-98 Outside Agency Requests as follows:

Agency	Approved 1996-97	Requested 1997-98	Committee Recommendation 1997-98
Arts Alliance	27,000	30,000	30,000
Autism Society	0	2,000	0
Chamber of Commerce	90,000	100,000	100,000
Community Relations Council	60,000	63,000	63,000
Crime Stoppers	18,000	21,666	21,666
Drug Commission	30,000	45,000	30,000
Asheville Area Rescue Squad	11,250	25,000	12,000
RiverLink	15,250	18,000	18,000
Sister Cities Inc.	2,000	2,000	2,000
Smith McDowell House	0	12,000	0
Vision	15,000	20,000	15,000*
YMI	0	30,000	0
Totals	268,500	368,666	291,666

*In addition to in-kind use of space in City Development Building (approximately $7,500)

Council Committee members Cloninger, Sellers and Worley responded to questions regarding their recommendations as they related to the additional $3,000 for the Arts Alliance, the need for an increase in the arts community in the future, the Chamber of Commerce funding, the Drug Commission allocation, the request by Smith McDowell House, other ways to help the Autism Society and the continued City staff work with the YMI.

City Manager Westbrook indicated that these figures would be included in the budget which public hearing will be on June 10, 1997.

FEES AND CHARGES COMMITTEE

Ms. Cindy Miller, Internal Auditor, reviewed the City Council Fees and Charges Committee recommendations for 1997-98 which include the following departments: Police, Civic Center, Building Safety, Public Works and Fire Inspections. The Committee also recommended the Community Development staff prepare a staff report and appropriate guidelines regarding the waiving of permitting fees for Affordable Housing projects in which the City participates. They also recommended the Civic Center Director evaluate current rates at the Civic Center and present a staff report with any recommendations of fee changes as soon as possible.

City Manager Westbrook indicated that these figures would be included in the budget which public hearing will be on June 10, 1997.

MID-YEAR RETREAT REPORT

It was the consensus of City Council to hold their mid-year retreat on a Friday in August.

FOUR YEAR STAGGERED TERMS

At the request of Mayor Martin, it was the consensus of City Council to research the question of four-year staggered terms for City Council.

BOARDS AND COMMISSIONS

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to appoint Mr. Tim Fierle to the Asheville Downtown Commission and Mr. Michael Haney to the Buncombe County Drug Commission.

HAW CREEK

Councilman Cloninger was pleased to report that the Haw Creek community raised $18,000 in one day by selling First Aid Kits for the Haw Creek Park. He presented each Council member with a kit he purchased for them.

BICENTENNIAL BANNERS

Co-Chair Leni Sitnick of the Bicentennial Committee announced bicentennial banners are available for $375.00 each.

CLOSED SESSION

At 4:50 p.m., Councilman Worley moved to go into closed session to prevent disclosure of information that is privileged or confidential pursuant to the law of this State, or the United States, or not considered a public record under G.S. Chapter 132. The law that renders the information to be discussed is G.S. 160A-168, the Personnel Privacy Act - the statutory authority is G.S. 143-318.11 (a) (1). This motion was seconded by Councilman Sellers and carried unanimously.

At 5:00 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

Mayor Martin announced that City Council will continue their worksession on the UDO at 5:30 p.m. in the Council Chamber on the second floor of the City Hall Building.

CONTINUATION OF UDO WORKSESSION WHICH BEGAN ON MAY 13, 1997

Upon inquiry of Mayor Martin, City Attorney Oast said that the City Council and the Planning & Zoning Commission held a joint public hearing in April, 1997, and now the Planning & Zoning Commission and the City Council are separately processing the information that came up at that public hearing. Since the Planning & Zoning Commission's recommendations are before Council at this time, it would not be appropriate for one Planning & Zoning Commission member to speak for the entire Commission, any more than one Council member would be able to testify as to the intent of the entire Council.

Mr. Oast emphasized that Council actions, at last week's worksession and tonight, are non-binding and information; that Council was only trying to determine which of the suggested changes merit further discussion.

Attached as Exhibit "A" is a three-page spreadsheet which City Council had before them as the worksession proceeded. This spreadsheet differs from the spreadsheet reviewed at Council's May 13, 1997, worksession by (1) this spreadsheet has the addition of a new section entitled "UDO Map Revision Requests, changes recommended by staff with consensus from P&Z;" (2) it has the City Council votes recorded from the May 13, 1997, meeting; and (3) the last page of the spreadsheet starts with No. 65 so that there is only one number assigned to each item.

Ms. Julia Cogburn, Planning & Development Director, said that with respect to Nos. 1-23 it is staff's understanding, as we move forward, that all the items will be included on the suggested list of map revisions, either because Council chose to not deal with that item, or because Council took a vote to actually suggest that those changes be made.

Councilman Sellers said that No. 24 under the heading "UDO Map Revisions, changes recommended by staff and P&Z" was an issue that he wished to discuss. It was the consensus of Council to review that issue. Councilman Sellers noted that Mr. Alan Moss has asked that his property (No. 24) be zoned from RM-6 to Office Business (not Office as listed on the spreadsheet). Also Mr. Moss has asked that his property (No. 33) be zoned from RM-6 to Office.

With the use of maps, City Council discussed and City staff answered various questions from City Council with regard to Item No. 24 and the following items listed on the first and second page of the spreadsheet (Item Nos. 25-36) which contain "UDO Map revision requests - changes recommended by staff with Consensus from P&Z". She explained that there was a consensus recommendation from the Planning & Zoning Commission out of their worksession - not their formal session. City Council determined that items not discussed in that category would be included in the draft list of map amendments proposed by City Council which will be presented to the Council on May 27. The following numbers were discussed with the final City Council vote after each (noting that all votes were taken after public comment):

No.	24	Motion by Sellers - Seconded by Hay (change from RM-6 to OB) 4-3 (Martin, Cloninger and Skalski voting "no")
No.	26	Consensus
No.	33	Motion by Sellers - Died for lack of second

With the use of maps, City Council discussed and City staff answered various questions from City Council with regard to the following items listed on the second page of the spreadsheet (Item Nos. 37-64) which contain "requested changes where no change is recommended by the staff or P&Z". It was determined that items not discussed in that category would not be included in the draft list of map amendments which will be presented to the Council on May 27. The following numbers were discussed with the final City Council vote after each (noting that all votes were taken after public comment):

No. 37	Motion by Skalski - Seconded by Sellers (change from RS-8 to RS-4) 4-3 (Cloninger, Field, and Worley voting "no")
No. 38	Motion by Worley - Seconded by Field (change from CI and I to RM-8) 7-0
No. 39	(See No. 38)

No. 41 Motion by Skalski - Died for lack of second
No. 43 Motion by Cloninger - Seconded by Skalski (change from CBI to NB contingent upon it not creating a nonconformity) 7-0
No. 45 Consensus for Mr. Zorn to work with Planning staff to try to reach a consensus
No. 48 Motion by Sellers - Seconded by Cloninger (change from RS-2 to I) 7-0
No. 51 Motion by Sellers - Seconded by Worley (change from RM-16 to CI) 3-4 (Martin, Cloninger, Hay and Skalski voting "no")
No. 53 Motion by Field - Seconded by Hay (change back to original zoning as proposed at North Community Meeting) 7-0
No. 55 Motion by Cloninger to zone the current Commercial General property on the west side of Charlotte Street from Broad Street north to and including Intermedia Cable property to CBII - Seconded by Worley. 2-5 (Martin, Field, Hay, Sellers and Skalski voting "no"). This Council is committed to work on an overlay district immediately and have it instituted within the 2-3 months.
Motion by Field - Seconded by Worley (leave Charlotte Street CBI north of Chestnut Street and CBII south of Chestnut Street with the exception of the changes made at the May 13, 1997, meeting) 6-1 (Skalski voting "no")
No. 60 Consensus
No. 61 Consensus
No. 64 Consensus

With the use of maps, City Council discussed and City staff answered various questions from City Council with regard to the following items listed on the third page of the spreadsheet (Item Nos. 65-79) which contain "UDO Map Revision requests, staff and P&Z recommendations differ." It was determined that if an item is not discussed in this category, staff will consider the Planning & Zoning Commission recommendation to be included in the draft list of map amendments which will be presented to the Council on May 27. The following numbers were discussed with the final City Council vote after each (noting that all votes were taken after public comment):

No. 65 Motion by Skalski - Died for lack of second
No. 66 Motion by Field - Seconded by Skalski. (piece of property that fronts on Beaucatcher Road be zoned RM-6 and the piece of property that fronts on Mineral Springs Road be zoned to OB) 6-1 (Sellers voting "no")
No. 67 Motion by Cloninger - Seconded by Skalski (change frontage to HB, rear to RM-16) 3-4 (Mayor, Field, Hay and Worley voting "no")
No. 68 Consensus
No. 73 Motion by Worley - Seconded by Field (zone RM-6) 7-0
No. 74 Motion by Cloninger - Seconded by Skalski (zone RS-2) 5-2 (Field and Hay voting "no")
No. 76 Consensus

At 7:10 p.m, Mayor Martin announced a 30 minute break.

With the use of maps, City Council discussed and City staff answered various questions from City Council with regard to the following items listed on the third page of the spreadsheet (Item Nos. 80-81) which contain "UDO Map Revision requests recommended by staff not reviewed by P&Z". City Council determined that items not discussed in that category would be included in the draft list of map amendments proposed by City Council which will be presented to the Council on May 27. City Council did not wish to discuss either item.

With the use of maps, City Council discussed and City staff answered various questions from City Council with regard to the following items introduced by City Council at this time. City Council determined that the votes taken on these items will determine whether they will be included in the draft list of map amendments proposed by City Council which will be presented to the Council on May 27. The following items were discussed with the final City Council vote after each (noting that all votes were taken after public comment):

No. 82	
Location:	Sweeten Creek Road, I-40 and Caribou Road
	PIN No. 9657-10-25-5042
Received From:	Skyland Oldsmobile (Mayor Martin)
Requested Change:	Industrial to CI
Vote:	Motion by Sellers - Seconded by Worley 7-0
No. 83	
Location:	Section in southern part of Kenilworth
Received From:	Jan Howard (Councilman Skalski)
Requested Change:	RM-6 to RS-8
Vote:	Motion by Skalski - Seconded by Hay 7-0
No. 84	
Location:	Property back behind the French Broad River Park
	PIN No. 9638.20-82-7087
Requested From:	Gus Barlas (Councilman Cloninger)
Requested Change:	RS-2 to RS-4
Vote:	Motion by Cloninger - Seconded by Hay 7-0
No. 85	
Location:	Property adjoining North Merrimon Avenue
	PIN No. 9730.12-85-8726
Requested From:	The Mascari family (Councilman Cloninger)
Requested Change:	RS-4 to CBI
Vote:	Motion by Worley - Seconded by Sellers 7-0

Mayor Martin noted that this is not a public hearing, however, comments up to three minutes would be taken.

Mr. Dan Zorn (Item No. 45) requested his property on Arco Road be zoned from RM-6 to RS-4. He felt that he could work with Planning staff on a compromise that might be acceptable.

Mr. Dick Gilbert (Item Nos. 38 and 39) recommend that the land along Roberts Street that is not currently being used be rezoned from CI to some appropriate residential use. Also that the land occupied by Pioneer Welding be zoned residential.

Mr. Tom Roberts, attorney representing the Mascari family (Item No. 85), asked that the property adjoining North Merrimon Avenue be zoned CBI, not RS-4.

The following individuals urged Council to zone the property on Hill Street (Item No. 53) residentially, not Office, In particular they requested the zoning which was on the original maps as presented at the North Asheville Library - which was basically a strip of office about one lot deep along Hillside, leaving residential RM-6 between the office and the schools):

Ms. Betsy Simpson, Montford resident
Ms. Mary Jo Brezny, Montford resident

Ms. Fairfax Arnold
Ms. Myra Fuller, Montford resident

The following individuals voiced strong opposition to zoning the Charlotte Street area (Item Nos. 55 and 18) CBII. They asked, among other things, to zone the area CBI and wait until the Charlotte Street Area Small Area Plan is completed:

An area resident
Mr. Richard Kerber
Mr. Rick Eckerd, Charlotte Street resident
Mr. Bob Zimmerman
Ms. Nora Bradshaw, Charlotte Street area resident (handed out a "Comparison of Existing and Proposed Zoning Districts by Size and Percentage of Total Jurisdiction" on Charlotte Street)
Ms. Leni Sitnick
An area resident
Ms. Janet Hart
Mr. Doug Michaels, resident on Howland Road

An unidentified man requested City Council asked Council to zone the Beaucatcher Mountain area (Item No. 74) RS-2, not RM-6.

Ms. Susan Andrew requested that a section in Kenilworth (roughly Beaucatcher Road to the east and north, Aurora to the west and south, and Kenilworth Road completes the circle) (Item No. 65) be changed from the proposed RM-6 to RS-4.

Mr. Ed Shoff (Item No. 82) requested his 32.70 acres of property on Sweeten Creek Road, I-40 and Caribou Road be zoned Commercial Industrial, not Industrial.

Ms. Jan Howard (Item No. 83) requested the rezoning of all the RM-6 areas of Kenilworth to RS-8.

Mr. Craig Justus requested Council zone the Hildebrand properties off of Tunnel Road (Item No. 66) to Office Business, not RM-16. Mr. Justus also requested the property back behind the French Broad River Park (Item No. 84) be zoned RS-4, not RS-2.

Ms. Leni Sitnick suggested another designation for a park instead of RS-4 so that we can guarantee that our parks are not inappropriately zoned residential.

Ms. Jane Hildebrand requested her property off of Tunnel Road (Item No. 66) be zoned Office Business, not RM-16.

At 9:15 p.m., Mayor Martin announced a ten minute break.

City Attorney Oast summarized the process that the Council has been through so far, the purpose of these worksessions and what's going to happen on May 27 which is when Council anticipates taking a final vote on the UDO text and maps. On May 27, the voting process, at least for the maps, will be that Council will consider adoption of the maps as they currently are. In other words, what the audience sees on the board at this meeting is what Council will be voting on. They will then consider any exceptions or changes to that map and those can be done in two ways. There are certain exceptions or changes that are contained on this list (Exhibit "A") that most people have a copy of, and with respect to which there has been no significant discussion or controversy and in effect there is no disagreement about it. But then there are

items with respect to which there is controversy, discussion has been generated, or there may be disagreement about it. What we have been trying to do in these last couple of worksessions is to identify where in each one of those particular categories the various properties fall. The City Council and the Planning & Zoning Commission held a joint worksession last month on the maps. They received a lot of information and a lot of suggestions that some of the zoning classifications of certain properties may be inappropriate. The Council and the Planning & Zoning Commission have been reviewing and processing that information to see whether any changes to the proposed maps are in fact appropriate. The staff and Council through these last several worksessions have been trying to determine which properties Council wishes to give further consideration to as far as placement on a list of exceptions or changes to the proposed UDO maps. Tonight and last week the Council had indicated, or will indicate, either by silence, consensus or a vote, in some cases, which properties it wishes to give further consideration to. With respect to those items on this list (Exhibit "A") that Council took no discussion on last week or tonight, the assumption is that Council is comfortable with the Planning & Zoning Commission recommendation and those items will be put on a "Consent Agenda" of exceptions or changes to the proposed UDO maps. With respect to any item that has been discussed, either last week or tonight, the proposal for tonight is to name each item by number and a brief description of its location and ask if the Council is comfortable with the Planning & Zoning Commission recommendation, which is indicated in the last column on the right hand side of the page. If Council is comfortable with that recommendation, then he suggested Council remain silent. If any Council member is uncomfortable with that recommendation, he suggested that the Council member call for a vote. If the vote that's taken, which vote is an informal, non-binding vote, is unanimous either way, he suggested that the property or tract be placed on the "Consent Agenda" for exceptions or Changes to the proposed UDO maps. If the vote is not unanimous, either way, he suggested it also be placed on the "Consent Agenda" for exceptions or changes to the proposed UDO maps" reflecting Council's vote on it. But, if any Council member objects to a property or tract being placed on that particular list, the Council member should indicate so tonight and it will be pulled off the list for further discussion next Tuesday night on May 27. He emphasized again that any direction given by Council tonight, whether indicated by silence, consensus or a vote, is informal and not binding. Nothing that Council does tonight will preclude any Council member from later requesting that further consideration be given to any particular tract or property. He emphasized that individual Council members may have heard property owners or others making certain promises or representations about what may or may not be done with certain property if the zoning is changed to a certain classification or it remains in a certain classification. Any such representation or indication should not enter into Council's consideration either tonight or next week. Any property zoned to a particular classification may be used for any purpose consistent with that zoning classification, and the persons who make those representations today may not own the property tomorrow or a year from now.

At this time, direction was given by City Council to staff on the item numbers above, as indicated on Exhibit "A".

ADJOURNMENT:

Mayor Martin adjourned the meeting at 10:15 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

UDO Map Revisions, Changes Recommended by Staff and P&Z

	Location	Map #	Received from:	Requested change	Staff and P&Z recommendation	P&Z vote	CC vote
1	Park Av.	9638-08	Lou Hedricks	CI to "residential"	change lot adjacent to her house	5 to 0	
2	Parkway Forest	9668-10,11,14,15	Thelma Hughes	RS-8 to RS-4	change as requested, subdivision meets RS-4 standards	5 to 0	
3	Utopia Rd.	9659-10	Jane Penland	RM-6 to RS-2	change upper Chunn's cove to RS-4 and RS-2, steep, poor access	5 to 0	
4	Blake Mtn. Estates	9655-13	Tim Davey	RM-6 to RS-2	change, unifies zoning of property	5 to 0	
5	Cornell St.	9657-17	Steven Bladash	RS-4 to Office	change, proximity to commercial and office development	5 to 0	
6	87 Riverside Church Rd.	9639-10	Roy Chapman	MHRC overlay	change, existing manf. homes in area, adjacent to MHRC	5 to 0	
7	Malvern Hills	9628-19	Linda Fursell	RS-8 to RS-4	change, existing lots do meet RS-4 requirements	5 to 0	
8	Falconhurst	9638-09	Dennis Campbell, Lane Reed	RM-8 to RS-8	change, rational RS-8 district results in few nonconformities	5 to 0	
			Jonathan Guest				
9	Vermont Av.	9638-13	Brian Peterson	RM-8 to "single family"	change, rational extension of RS-8 district unifies zoning on Vermont	5 to 0	
10	Vivian Rd./Nantahala St.	9649-05	Pam Turner, UNC-A	RM-8 to INST on Vivian Rd.	change, to unify zoning of UNC-A property	5 to 0	consensus
11	Grove Park	9649-06	Glenda Burgin, Dennis King	change Resort east of Macon	change, more logical zone pattern, proximity to residences	3 to 1	
12	Broad St.	9649-14,15	Denny Martin	change RM-8 to Office s. of Broad	change, more logical zone boundary	4 to 1	5 to 1
13	Ottari Rd.	9740-18,19	Bill & Margaret Mull	RM-8 & RS-8 to RS-4	change area south of Ottari to RS-8 to match existing development	5 to 0	
14	Tunnel Rd.	9658-12-87-6254	City of Asheville	RS-4 to CB1	change, East Asheville Recreation Center	5 to 0	
15	1 Logan Av.	9638-12-86-7975	Chris Peterson	RM-8 to commercial	change to River District, eliminates nonconformity	5 to 0	
16	E. Chestnut St.	9649-15	John Killian, Bill Bass	RM-8 to CB1	change to CB1, eliminates nonconformity	5 to 0	consensus
17	E. Chestnut St.	9649-15	John Killian, Bill Bass	RM-8 to RM-16	change to RM-16, high density existing development	4 to 1	6 to 1
18	Crescent St. area	9649-15	John Killian, Bill Bass	RM-8 to RM-16	change to RM-16, area from Broad St. to Lennox St., east of Madison St.	4 to 1	4 to 3
19	Louisiana Av.	9639-17	property owners	RM-6 to office or commercial	change to Office, property along Louisiana Av.	5 to 0	consensus
20	I-40 / NC 191	9627-12-97-5330	Biltmore Farms, Inc.	RM-8 to HB	change to HB	5 to 2	
		9637-05-07-1739					
21	Trinity Industries	9639-14	Benson Slosman	INST to IND	change parcel recently added to site to IND	7 to 0	
22	Biltmore area	9648-20	Benson Slosman	extend CI to Stoner Rd.	extend CI to existing LI boundary	7 to 0	
23	Merrimon Av.	9649-06,10	Rhodes	RM-8 to RM-16 and CB1	change to RM-16	4 to 3	6 to 1*
24	Hazel Mill Rd. (5 lots)	9639-17	Alan Moss	RM-6 to Office	change to Office	5 to 0	

UDO Map Revision Requests, Changes Recommended by Staff with Consensus from P&Z

25	Old Haywood Rd.	9628.17	George Morasni	RM-8 to HB	change as requested leaving 100' buffer of RM-8	consensus	
26	Westwood / I-240	9638-07-78-2505	George Morsani	not currently zoned, zone HB	change to HB	"	
27	Wood Av.	9658-14-32-7900	Bill Burgin	River to CI	change to CI	"	
28	Yorkshire St.	9647-12-85-6923	R.L. Bailey, Winston Pulliam	RS-8 to INST	change to Office	"	
		9647-12-86-5192				"	
29	304 Cisco Rd.	9659-15,19	Mel Thomason	RS-2 to RS-4	change to RS-4	"	
30	Oleen Church Rd.	9668-10,14	neighborhood property owners	RM-8 to RS-2	change to RS-2	"	
31	Iris and Shady Oak Dr.	9647-08,12	neighborhood property owners	RM-8 to RS-8	change to RS-8	"	
32	Wedgefield Dr.	9627-07	Barbara Watts	Office to commercial	change to CB1		

Exhibit "A"
5-20-97

	Location	[redacted]	Received from:	Requested change	Staff and P&Z recommendation	P&Z Vote	CC Vote
UDO Map Revision Requests, Changes Recommended by Staff with Consensus from P&Z, cont.							
33	Hazel Mill Rd.	9639-17, 9638-05	Alan Moss	RS-2 to RM-6	change to RM-6	consensus	
34	Beaverdam Rd	9750-09	area property owners	NB to RS-4	change to RS-4	"	
35	West Chapel/Oakley School Rd.	9657-18-41-8459	Nancy Williams, Henry Mitchell et al	RS-8 to IND	change to IND, eliminates nonconformity	"	
36	Hendersonville Rd.	9654-05,9655-17	Lucy Ratcliff	INST to HB	change to HB	"	
UDO Map Revision Requests, No Change Recommended by Staff or P&Z							
37	Kenilworth Forest	9658-09,13	Fred Martin	RS-8 to RS-4	no change, many lots do not meet RS-4 widths	consensus	
38	West End/Clingman	9638-06, 9648-05	Donna Anderson	CI and INST to "residential"	no change, mapping follows 2010 Plan	3 to 2	
39	West End/Clingman	9638-06, 9648-05	Scott Dedmon	CI to "residential"	no change, mapping follows 2010 Plan	3 to 2	
40	Clingman Av.	9648-05	Freddie Mitchell	Boozer property to "commercial"	no change	consensus	
41	Oakley	9657-07,08	Henry Mitchell, Derwin Williams	RS-8 and RM-8 to RS-4	no change, many lots do not meet RS-4 widths	4 to 1	
			Paul Reynolds, Nancy Williams				
			Jack Benington, Bill Keller				
			Jennifer Scovill	RM-8 to "office or commercial"	no change, proximity to single family residential	5 to 0	
42	South End	9648-13,14	Barber Mellon	CB1 to NB Beverly&New Haw Crk.	no change, would create nonconforming business	3 to 2	
43	Haw Creek	9658-08	Dorothy Olson	RM-6 to "commercial"	no change, strip zoning, proximity to residential uses	5 to 0	
44	Tunnel Rd.	9658-06, 9668-05	Dan&Kristen Garner-Zorn	RM-6 to RS-4	no change, existing multi-family in area	5 to 0	
45	Arco Rd.	9658-07,11	Roger Chipman	RS-4 to "commercial"	no change, recent rezoning petition denied	consensus	
46	Royal Pines Rd.	9654-10	Don Icenhower	MHRC overlay	no change, few existing manf. homes in area	"	
47	Peach St.	9628-14	Lucy Crowell	RS-2 to Industrial	no change, flood plain property adjacent to residential, 2010 Plan	"	
48	Pond Rd.	9627-17	David Nash, Pisgah Legal Ser.	more RM-8	no specific location	"	
49	jurisdiction wide	"	Earl Cobb	requested more RS-8	no specific location	5 to 0	
50	West area	?	Jim Beck	RM-16 to CI	no change, recent rezoning denied, poor industrial access, residences	5 to 0	
51	Deaverview Rd.	9628-10	Pam Turner, UNC-A	"multi-family" in Edgewood Rd. area	no change, further study recommended	3 to 2	
52	UNC-A area	9649-05	Mary Jo Brezny	change Office district to residential	no change, poor location for residential development	3 to 2	
53	Hill St.	9649-17	Arnold Green	change Resort on GPI golf course	no change, part of GPI resort	4 to 1	
54	Grove Park	9649-07,11	Nora Bradsher, Mary Parker	change CB11 to CB1 on Charlotte St.	no change, would create nonconforming size buildings	3 to 2	
55	Charlotte St	9649-15	Janet Hart, Andrew Hart				
			Peggy DuBell				
56	853 Merrimon Av.	9740-18	Pauline Kalisunis	change RM-8 to CB11 on Ollari Rd.	no change, recent rezoning denied, commercial encroachment	4 to 1	
						5 to 0	
57	Elida Home	9629-14	Chamber of Commerce	change Institutional to Industrial	no change at this time, further study needed	consensus	
58	Buncombe Co. Schools Admin.	9639-14	Chamber of Commerce	change Institutional to Industrial	no change, inappropriate zoning for existing use	5 to 0	
59	Rock Hill Rd.	9657-18-30-6758	Rellie Hollifield	MH overlay for lot	no change, spot zone, larger area a possibility	4 to 1	
60	Pond Rd.	9627-15-53-8184	Ward McIntosh	RS-2 to CI	no change, 2010 Plan	3 to 2	
61	Pond Rd.	9627-14-42-1999	Delozier	RS-2 to CI	no change, 2010 Plan, proximity to residential	4 to 1	
62	Pisgah View Rd.	9628-09	Doug Linberry	MHRC overlay	no change at this time, further study needed	7 to 0	
63	Sweeten Creek Rd.	9656-10-35-7314	Deborah Terrell	RM-16 to commercial	no change	7 to 0	
64	Old County Home Rd	9629-18-31-5956	Bruce Moss	RM-6 to commercial	no change, residential area		

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UDO Map Revision Requests, Staff and P&Z Recommendations Differ								
	Location	Map #	Received from:	Requested change	Staff recommendation	P&Z recommendation	P&Z Vote	CC Vote
65	Kenilworth	9648-08,12	Susan Andrew et al	RM-8 and RM-16 to RS-4	no change, mixed use and lot sizes	change area bounded by Springdale & Aurora to RS-8	3 to 2	
		9658-05,08						
66	Tunnel Rd.	9658-05, 9648-08	Craig Justus, Jane Hildebran	RM-16 to OB	no change, poor access, proximity to residential uses	change to Office/Business (OB)	4 to 1	
67	Brevard Rd.	9627-06,12	Bill Frue, rep. Ingles	RM-8 to RB	change, frontage to HB, rear to RM-16	change entire property to Regional Business (RB)	4 to 1	
68	Sand Hill Rd.	9617-16-83-0548	Tom Plemmons	requested CI	no change, spot zoning, residential area	change to Commercial Industrial (CI)	4 to 1	
		9617-16-83-0649						
69	I-40/US 19/23	9617-07,08	George Saenger	HB and RM-8 to IND	no change, proximity to residential areas, poor industrial access	change to Commercial Industrial (CI)	4 to 1	
70	Pond Rd.	9627-19	Kathryn Trueblood	RS-2 to IND	no change, flood plain, proximity to residential, 2010 Plan	change to Commercial Industrial (CI)	4 to 1	
71	Leicester Highway	9629-18	Bob Ledford, Bruce Moss	RM-8 to "commercial"	change to Office, limits strip development, allows non-residential use	change to Community Business 11 (CB11)	4 to 1	
72	Jackson Park/Woolsey area (incl Sevier St.)	9649-05,08	Jim Siemens, John Quigley Ron Deme, Dee Murphy Kathy Burrow, Mary Cramer Laura Whitley, David Gould David Whitley, Tom Muncy Dennis Campbell, Randy Bernard	change RM-8 to RS-8 and RS-4	change zoning on Edgewood, Maney and Fenner from RM-8 to RM-6	change RM-8 area to RS-8, except block of duplexes at the SW corner of Barnard & Edgewood to RM-8, and the Mt. Trace Apts. on Sevier St.	3 to 2	
73	Gertrude St.	9649-11	Joe Adams	RM-8 to single family	no change, would result in nonconformities	change Gertrude St. including existing apartments RS-8	3 to 2	
74	Beaucatcher Mtn.	9648-9,12	Pat Whalen	change ridge from RS-2 to RM-8	no change, conflicts with goal of 2010 Plan for sensitive areas	change to RM-8	3 to 2	
		9649-20						
		9658-9,13				change to RS-8	7 to 0	
75	Arlington St.	9649-15	Drew Nichols, Janet Hart	change portion of street from Office to RS-8	Office			
						change to CB11	5 to 2	
76	Old County Home Rd.	9629-18-31-5705	Bruce Moss	RM-8 to commercial	RM-8	change to RS-8	4 to 3	
77	Albemarle Rd &Pl.	9649-15	Janet Hart	RM-8 to RS-4	RM-8	change to RS-8	7 to 0	
78	Blue Ridge Av.	9638-09	Dennis Campbell	RM-8 to RS-8	RM-8	change to RS-8	7 to 0	
79	Vance Crescent, Brevard Rd., Olney Rd., Rex St., Davenport Rd., Vance Crescent-Ext., Sand Hill Rd	9638-13	Brian Peterson	RM-8 to RS-8	RM-8			
Map Changes Recommended by Staff not Reviewed by P&Z								
80	Beaverdam Rd.	9740-14,15	Asheville Catholic School/Church	from Office to allow larger buildings	change school property to RM-8, vet property to CB1			
81	Arlington St.	9649-15-72-3700	Jeff Haase	from RS-2 to RS-8	change, more consistent boundary			

Tuesday - May 27, 1997 - 5:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Hay gave the invocation.

I. PROCLAMATIONS:

A. AWARD RECOGNITION

Mayor Martin said that the City of Asheville received the North Carolina American Planning Association Award for the Asheville Riverfront Homeownership Zone. In selecting this project, the Planning Association noted that the project provides a collaborative approach involving Pisgah Legal Services, the Affordable Housing Coalition and Mountain Housing Opportunities to empower residents and business owners to redevelop their neighborhood. He presented Mr. Marvin Vierra, Community Development Director, the award and thanked him for his efforts.

II. CONSENT:

Councilman Hay asked that Items C, D, E, F, G, H, I, J and K be removed from the Consent Agenda to be voted on separately.

Vice-Mayor Field, Chairman of the City Council Boards and Commissions Committee, said it was her understanding that if there was a 7-0 straw vote in the worksession, those appointments were to go on the consent agenda. She suggested Council discuss this procedure at a later date.

RESOLUTIONS & MOTIONS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 13, 1997, AND THE WORKSESSION HELD ON MAY 20, 1997

B. MOTION SETTING A PUBLIC HEARING ON JUNE 10, 1997, RELATIVE TO ADOPTION OF THE 1997-97 GENERAL OPERATING BUDGET

C. RESOLUTION APPOINTING A MEMBER TO THE CARRIAGE PERMIT ADVISORY BOARD

This item was pulled off the Consent Agenda to be voted on separately.

D. RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

This item was pulled off the Consent Agenda to be voted on separately.

E. RESOLUTION APPOINTING A MEMBER TO THE CIVIL SERVICE BOARD

This item was pulled off the Consent Agenda to be voted on separately.

F. RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE DOWNTOWN COMMISSION

This item was pulled off the Consent Agenda to be voted on separately.

G. RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY DRUG COMMISSION

This item was pulled off the Consent Agenda to be voted on separately.

H. RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ELECTRICAL EXAMINERS

This item was pulled off the Consent Agenda to be voted on separately.

I. RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

This item was pulled off the Consent Agenda to be voted on separately.

J. RESOLUTION ENDORSING APPOINTMENT OF MEMBER TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

This item was pulled off the Consent Agenda to be voted on separately.

K. RESOLUTION REAPPOINTING MEMBERS TO THE RECREATION BOARD

This item was pulled off the Consent Agenda to be voted on separately.

L. RESOLUTION NO. 97-69 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE DOWNTOWN ASSOCIATION'S 1997 EVENTS

Summary: The Parks and Recreation Department recommends that the possession of open containers of malt beverages and/or unfortified wine and the consumption of malt beverages and/or unfortified wine be allowed for the 1997 events of the Asheville Downtown Association at the locations and times specified.

For many years, the Asheville Downtown Association has co-sponsored with the City of Asheville events to bring both the public and visitors to the Downtown area. During these years, the events were facilitated by the City Development Office. Beginning in 1997, these events will be facilitated by the Parks and Recreation Department. These events include: *Moonlight Over Downtown*, *Honda Hoot Public Rally*, *and four Downtown After Five activities*. The Asheville Downtown Association has requested permission to allow possession and consumption of beer and wine during these events as they have been allowed in the past.

M. RESOLUTION NO. 97-70 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CARL WALKER INC. TO CONDUCT A COMPREHENSIVE PARKING STUDY FOR DOWNTOWN, BILTMORE VILLAGE AND WEST ASHEVILLE

Summary: staff is requesting City Council to consider the selection a consulting firm to perform a Comprehensive Parking Study for Downtown, Biltmore Village and West Asheville.

The City of Asheville has requested proposals for a detailed analytical and comprehensive parking study reviewing existing and future parking needs of three areas of the City (Downtown, Biltmore Village, West Asheville). The study will provide an action plan that will address and include the following:

(1) the projected demand for parking;
(2) identification of and proposed locations for various parking improvements;
(3) feasibility analysis of the various parking improvements including financial plans utilizing various financial options;
(4) plans for mitigating impacts on traffic flow and surrounding neighborhoods;
(5) parking enforcement options;
(6) equipment needed; and
(7) overall implementation plans

Partial funding for this project will come from the Unified Planning Work Program of the Asheville Urban Area Metropolitan Planning Organization, City of Asheville, Buncombe County and private donations. The "Request for Proposal" (RFP) solicited by the City included input and data from City Staff, The Downtown Commission and the Asheville Downtown Association's Parking Task Force, the City of Asheville's 2010 Plan, South Pack Square Redevelopment Plan, the Asheville Area Transportation Improvement Plan, Biltmore Village Development Plan and the West Asheville Priority Setting Findings.

This process began in December 1996 as per direction from the City Council. A total of 55 RFP's were sent out across the country. Fourteen firms responded and seven firms submitted proposals. The following is a summary of the proposals received:

Rich	$39,500
Law	$45-90,000
McLaurin	$93,800
Wilbur Smith	$147,000
RBA	$62,000
Ramp Assoc.	$55,500
Carl Walker	$92,400

The proposals were reviewed by City Staff consisting of the Assistant City Manager, the Director of Public Works, the Planning and Development Director, the Finance Director, the City Traffic Engineer, the Parking Services Manager, and the Downtown Development Manager and members of the Parking Task Force and ranked to determine the three finalists to be interviewed. Carl Walker, Inc., Wilbur Smith Engineering and the RBA Group were the finalists shortlisted by staff.

Interviews were conducted with each of the three firms. It was determined, almost unanimously, that the Carl Walker, Inc. Team (consisting of Day Wilburn Engineering, Springsted Financial Advisors,

A-1 Staffing and Personnel and Purcell and Associates Realty) was the most qualified firm that met the requirements of the RFP.

Carl Walker, Inc. has proposed to complete the study within 180 days for a fee of $92,400.00. This includes some modification to the base proposal amount concerning additional community meetings and a land-use survey of all commercial districts.

CARL WALKER PROPOSAL:

	If separated:	**Combined:**
Downtown Asheville	$ 62,300	
Biltmore Village	$ 22,000	
West Asheville	$ 22,000	
	$106,300	$ 91,200
Add'l meeting	$ 1,200	$ 1,200
Downtown	$107,500	$ 92,400

Based upon funding available from the Asheville Metropolitan Planning Organization in conjunction with funds from the City, the County as well as from private donations, adequate funds exist to perform the entire scope of the project in all three study areas.

Funding for this project is calculated as follows:

Carl Walker Proposal	$92,400.00
MPO - Work Program (80% State)	-73,920.00
(20% Local)	18,480.00
Solicit 50% Participation	- 9,240.00
Buncombe County	9,240.00
City of Asheville	- 9,240.00
	$ - 0 -

City staff recommends that the City Manager be authorized to enter into a contract with Carl Walker, Inc. for the amount not to exceed $92,400.00 to provide a comprehensive parking study for Downtown, Biltmore Village and West Asheville.

RESOLUTION BOOK NO. 24 - PAGE 72

N. RESOLUTION NO. 97-71 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH W.P. LAW INC. TO MANUFACTURE AND DELIVER 42 DECORATIVE STREET LIGHTS AND ASSOCIATED EQUIPMENT AND SUPPLIES FOR THE BILTMORE VILLAGE HISTORIC DISTRICT

Summary: The Asheville City Council has entered into an agreement with Biltmore Village Historic Museum Commission, Inc. as representatives of the Biltmore Village property owners concerning the purchase of decorative street lighting for 42 locations within the Biltmore Village Historic District in the scope of Phase 1 of this project.

The City has solicited bids for the manufacture of the decorative street lighting and has received 6 bids.

The lowest most reasonable bids that meet the City's and Museum's requirement was received from W. P. Law. Inc. from Greer, S.C. for a bid price as follows:

- 42 Cast Aluminum Decorative Street Light Poles, Lanterns and Lantern Brackets	$50,963.64
- 22 Cast Aluminum Sign Brackets and Frames	2,487.84
Total:	$53,451.48

The City of Asheville has received $20,000.00 from Biltmore Village Museum toward the purchase and installation of these 42 decorative street lights and associated equipment and supplies as part of the Street Light Agreement. The Traffic Engineering Division has budgeted $70,000.00 for this project. Therefore, sufficient funds are in-hand for completion of Phase 1 of this project.

Staff recommends that the City Manager be authorized to enter into a contract with W. P. Law, Inc. to provide decorative street lighting for Biltmore Village Historic District as per the Street Light Agreement.

RESOLUTION BOOK NO. 24 - PAGE 73

O. RESOLUTION NO. 97-72 - RESOLUTION COVERING LITTLE LEAGUE COACHES UNDER THE CITY'S GENERAL LIABILITY AND WORKERS' COMPENSATION PROGRAM AS VOLUNTEERS FOR THE CITY

Summary: The Parks and Recreation Department requests City Council's approval of coaches in the six Little League programs co-sponsored by the City of Asheville to be covered under the City's general liability and workers' compensation program.

During the month of March, all six Little League associations co-sponsored by the Parks and Recreation Department conducted a series of clinics in conjunction with Parks and Recreation staff. During these clinics, each coach was given instruction in regard to proper conduct for dealing with youth, emergency first aid instruction, general philosophy of the Parks and Recreation Department, as well as on-the-field skills training. A list of coaches from the various organizations who completed the training is available. The Parks and Recreation staff is recommending that City Council approve this list of coaches so they can be covered under the City's general liability and workers' compensation program as volunteers for the City.

The Parks and Recreation Department requests City Council's approval of the list of Little League coaches to be covered under the City's general liability and workers' compensation program.

RESOLUTION BOOK NO. 24 - PAGE 74

P. MOTION SETTING A PUBLIC HEARING FOR JUNE 10, 1997, RELATIVE TO AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES REGARDING TREES

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCES:

A. ORDINANCE NO. 2364 - BUDGET AMENDMENT RELATIVE TO FUEL COST INCREASES

Summary: Consideration of an amendment to the Fleet Management Fiscal Year 96-97 budget increasing motor vehicle fuel expenditures.

The Fleet Management Fiscal Year 96-97 fuels budget was developed in January 1996 based on an assumed fuel purchase price of $0.90 per gallon throughout the entire year. Prices have significantly increased since that time. Actual prices paid during the year have never dropped as low as the budgetary assumption and have been as high as $1.1495 for unleaded, $1.045 for kerosene and $0.979 for diesel.

The budget amendment adds $130,000 to the motor vehicle fuels expenditure line item to enable continued bulk fuel purchases for the remainder of the Fiscal Year. The offsetting revenue is from fuel prices charged to the various City departments each time they refuel their vehicles at the City's service station. The prices charged the departments have been adjusted throughout the year to parallel the actual costs of each bulk fuel purchase by the City.

ORDINANCE BOOK NO. 16 - PAGE 192

B. ORDINANCE NO. 2365 - BUDGET AMENDMENT TO FUND REMAINDER OF ASHEVILLE AREA RESCUE SQUAD REQUEST FOR FISCAL YEAR 1995/96

Summary: The Asheville Area Rescue Squad has requested $ 5,625 from the City of Asheville as the remainder of funding approved for the agency for fiscal year 1995/96.

The City Council Outside Agency Committee met to discuss the funding request of $ 5,625 from the Asheville Area Rescue Squad. The Asheville Area Rescue Squad had been approved by the City Council for a total of $11,250 in outside agency funding for fiscal year 1995/96. The Rescue Squad had complied with the terms of the contract on a timely basis for the first two quarterly payments and received payments totaling $ 5,625 but failed to submit required reports for the final two quarters of the fiscal year in a timely manner. The Rescue Squad has since submitted such required reports and is requesting payment for the two last quarters of the 1995/96 fiscal year. As those funds are not appropriated in the current year, an appropriation of General Fund Contingency is required to meet the funding request.

The City Council Outside Agency Committee recommends the City Council approve the $ 5,625 funding request from the Asheville Area Rescue Squad for the fiscal year 1995/96. This appropriation will leave a General Fund Contingency uncommitted balance of $46,653.

ORDINANCE BOOK NO. 16 - PAGE 194

C. ORDINANCE NO. 2366 - BUDGET AMENDMENT FOR 42 DECORATIVE STREET LIGHTS AND ASSOCIATED EQUIPMENT AND SUPPLIES FOR THE BILTMORE VILLAGE HISTORIC DISTRICT

Summary: This budget amendment, in the amount of $90,000 is for 42 decorative street lights and associated equipment and supplies for the Biltmore Village Historic District.

ORDINANCE BOOK NO. 16 - PAGE 196

D. ORDINANCE NO. 2367 - BUDGET AMENDMENT FOR A COMPREHENSIVE PARKING STUDY FOR DOWNTOWN, BILTMORE VILLAGE AND WEST ASHEVILLE

Summary: This budget amendment, in the amount of $92,400 is a comprehensive parking study for downtown, Biltmore Village and West Asheville.

ORDINANCE BOOK NO. 16 - PAGE 198

E. ORDINANCE NO. 2369 - ORDINANCE AMENDING ARTICLE 9 OF THE CODE OF ORDINANCES TO AMEND THE TERMS OF THE BOARD OF ELECTRICAL EXAMINERS FROM TWO TO THREE YEARS

ORDINANCE BOOK NO. 16 - PAGE 200

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Skalski moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, the Ordinance Consent Agenda was adopted on its first reading.

ITEMS PULLED FROM THE CONSENT AGENDA TO BE VOTED ON SEPARATELY

RESOLUTION NO. 97-73 - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: The terms of J. Howard Collins, Nancy Williams and Stephen Toomey expire on June 30, 1997. This resolution will reappoint Mr. Collins, Ms. Williams and Mr. Toomey to each serve an additional three year term, respectively. Their terms will expire June 30, 2000, or until their successors have been appointed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not read.

Councilman Hay moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Cloninger and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 75

RESOLUTION NO. 97-74 - RESOLUTION APPOINTING A MEMBER TO THE CARRIAGE PERMIT ADVISORY BOARD

Summary: On March 19, 1997, Deena Knight resigned as a member of the Carriage Permit Advisory Board. This resolution will appoint Ms. Susan Dodson to serve the unexpired term of Ms. Knight. Ms. Dodson's term will expire on June 25, 1999, or until her successor is appointed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not read.

Vice-Mayor Field moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 76

RESOLUTION NO. 97-75 - RESOLUTION APPOINTING A MEMBER TO THE CIVIL SERVICE BOARD

Summary: The term of Johnny Lloyd, as a member of the Civil Service Board, expired on May 21, 1997. This resolution will appoint Dr. Nancy Kauffman to serve a two year term, term to expire May 21, 1999, or until her successor has been appointed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not read.

Councilman Worley moved for the adoption of Resolution No. 97-73. This motion was seconded by Vice-Mayor Field and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 77

RESOLUTION NO. 97-76 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: On February 19, 1997, Mr. Chuck Pickering resigned as a member of the Asheville Downtown Commission. This resolution will appoint Mr. Timothy Fierle to serve the unexpired term of Mr. Pickering. Mr. Fierle's term will expire on December 31, 1997, or until his successor is appointed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not read.

Councilman Cloninger moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 78

RESOLUTION NO. 97-77 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY DRUG COMMISSION

Summary: The term of John Ingersoll, as a member of the Buncombe County Drug Commission, expires on July 1, 1997. This resolution will appoint Mr. Michael Harney to serve a three year term. Said term will begin on July 1, 1997, and expire on July 1, 2000, or until his successor has been appointed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not read.

Councilman Sellers moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 79

RESOLUTION NO. 97-78 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ELECTRICAL EXAMINERS

Summary: The terms of Eugene Presley, Joe Enderle, Harold Garland, Ray Burleson and Kevin Butler expire on July 1, 1997. This resolution will reappoint Eugene Presley, Joe Enderle and Harold Garland and appoint Ronnie McAbee and Terry Ponder to serve a three year terms, respectfully. All terms will expire on July 1, 2000, or until their successors have been duly appointed.

Vice-Mayor Field explained that because there are certain requirements for this board, i.e., a utility representative, a journeyman electrician, an electrical contractor, and a licensed engineer, some of these members being appointment do not live in the

City of Asheville. She further explained that because the Board meets only quarterly for two year terms, two board members have been reappointed to a third term.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not read.

Vice-Mayor Field moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 80

RESOLUTION NO. 97-79 - - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: The terms of Ms. Shirley Early and Dr. Pam Nickless expire on July 1, 1997. This resolution will reappoint Ms. Early and Dr. Nickless to each serve an additional three year term, respectively. Their terms will expire July 1, 2000, or until their successors have been appointed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not read.

Councilman Sellers moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Hay and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 81

RESOLUTION NO. 97-80 - RESOLUTION ENDORSING APPOINTMENT OF MEMBER TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Summary: The term of Annette Coleman, as a member on the Housing Authority, expires on June 11, 1997. This resolution will endorse the reappointment by Mayor Russ Martin of Mrs. Coleman to serve an additional five year term. Her term will expire on June 11, 2002, or until her successor has been appointed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not read.

Vice-Mayor Field moved for the adoption of Resolution No. 97-73. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 82

RESOLUTION NO. 97-81 - RESOLUTION REAPPOINTING MEMBERS TO THE RECREATION BOARD

Summary: The terms of Mr. Thomas McMahon, Mr. William Stewart, Mr. Jim Orr and Mr. Samuel Camp expire on June 30, 1997. This resolution will reappoint Mr. McMahon, Mr. Stewart, Mr. Orr and Mr. Camp to each serve an additional three year term, respectively. Their terms will expire June 30, 2000, or until their successors have been appointed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not read.

Councilman Worley moved for the adoption of Resolution No. 97-73. This motion was seconded by Vice-Mayor Field and carried unanimously.

III. PUBLIC HEARINGS:

A. **PUBLIC HEARING RELATIVE TO A ZONING VESTED RIGHT REQUEST FOR THE ASHEVILLE CITY SCHOOL BOARD AT THE LUCY HERRING FACILITY ON MOUNTAIN STREET**

Mayor Martin opened the public hearing at 5:32 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that Asheville City School Board is requesting zoning vested rights pursuant to Section 30-14-1 of the zoning ordinance in order to expand their administrative office use at the Lucy Herring Facility on Mountain Street.

The property in question is a 4.26 acre lot owned by the Asheville City School Board. The building currently houses approximately 2,100 square feet of administrative offices. This use will be expanded to approximately 24,000 square feet.

A variance to allow a reduction in off-street parking spaces has been reviewed and unanimously approved by the Board of Adjustment. The site plan meets all applicable development standards.

The City Planning and Development staff recommends approval of the zoning vested rights as the site plan meets all requirements of the existing zoning ordinance.

Upon request of Mr. Halliburton about the use of the property, Mr. John Cort, Cort Architectural Group, explained that this will allow the School Board to occupy all of the building, not just the first floor.

Mayor Martin closed the public hearing at 5:39 p.m.

Vice-Mayor Field moved to approve the zoning vested right for the Asheville City School Board at the Lucy Herring Facility on Mountain Street. This motion was seconded by Councilman Sellers and carried unanimously.

B. **PUBLIC HEARING TO DETERMINE THE PARKING REQUIREMENTS FOR THE VOLUNTEERS OF AMERICA ELDERLY HOUSING FACILITY LOCATED AT 650 CARIBOU ROAD**

Mayor Martin opened the public hearing at 5:39 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Erin McLoughlin, Urban Planner, said that this proposal is for a two story, 51 unit elderly housing development. The parcel is zoned R-2 (low to medium density residential). The project meets all zoning, parking, and landscaping requirements. Letters of approval have been received from the Water Resources Department, the Fire Department and MSD.

Staff has received no comments in opposition to this group development.

The developer has requested a reduction in the amount of off-street parking required as stated in Sec. 30-2-11 (H). This section states that City Council will determine the amount of parking required for elderly or low or moderate income housing projects after receiving recommendations from the Planning & Development Department staff and the Planning & Zoning Commission. Their request is for 64 parking spaces rather than 102 spaces. This is a reduction of 38 spaces. City Council set a public hearing for May 27, 1997, to discuss and decide on the requested parking reduction.

The Planning & Development Department staff recommends approval of the group development with no conditions and approval of the requested reduction in parking.

At their May 8, 1997, meeting, the Planning and Zoning Commission voted unanimously to recommend approval the group development with no conditions and they approved the requested reduction in parking.

Mayor Martin closed the public hearing at 5:41 p.m.

Vice-Mayor Field moved to approve the reduction of the required number of parking spaces from 102 spaces to 64 spaces for the Volunteers of America Elderly Housing facility located at 650 Caribou Road. This motion was seconded by Councilman Worley and carried unanimously.

Councilman Worley moved to approve the Volunteers of America Elderly Housing Facility at 650 Caribou Road. This motion was seconded by Councilman Sellers and carried unanimously.

C. **PUBLIC HEARING TO AMEND THE ZONING ORDINANCE REGARDING GOVERNMENTAL SIGNS AND SIGNS LOCATED IN THE RIGHT-OF-WAY**

Due to an error in advertising for this public hearing, Councilman Sellers moved to reschedule the public hearing for 5:00 p.m. on June 10, 1997, in the Council Chamber of the City Hall Building. This motion was seconded by Councilman Worley and carried unanimously.

IV. UNFINISHED BUSINESS:

A. **CONTINUATION OF PUBLIC HEARINGS HELD ON APRIL 10, 1997 (TEXT) AND APRIL 24, 197 (MAPPING) RELATIVE TO THE ADOPTION OF THE UNIFIED DEVELOPMENT ORDINANCE**

ORDINANCE NO. 2369 - AN ORDINANCE TO ENACT NEW DEVELOPMENT REGULATIONS AND TO CONSOLIDATE THE CURRENT AND THE NEW DEVELOPMENT REGULATIONS INTO A UNIFIED DEVELOPMENT ORDINANCE

ORDINANCE NO. 2370 - AN ORDINANCE TO ADOPT NEW ZONING CLASSIFICATION MAPS AND GIVE EFFECT TO NEW ZONING REGULATIONS FOR THE CITY OF ASHEVILLE

Mayor Martin stated that the sequence of events at this public hearing will be as follows:

1. Summarize the UDO process so far, especially the last 18 months.

2. Receive Staff Report on text and maps; there are some unfinished details that require further discussion.

3. Re-open public hearing on maps and text - usual rules in effect. Close public hearing.

4. Further Council consideration of suggested revisions to proposed final UDO zoning classification maps. The same process will be used as was during worksessions on May 13 and May 20 - discussion, questions to staff, consensus or straw vote.

5. Further consideration by Council of proposed changes to final UDO text. Pursuant to earlier Council motion, re-opening debate on any section of proposed text requires an affirmative vote of 5 members of Council. The same process will be used as before - discussion, questions to staff, consensus or straw vote.

6. Final vote on text, as revised. This will require one vote.

7. Final vote on UDO zoning classification maps. It is anticipated that this will require three votes, two informal and one formal.

The Mayor summarized the UDO process to date as follows: The City staff, City Council, and Planning & Zoning Commission have been working off and on over the last seven years, and in earnest for the last 18 months, to develop a Unified Development Ordinance or "UDO" for the City of Asheville. The City of Asheville's current land development ordinances are out of date, have been adopted at different times, and are contained in different parts of the City Code. They are not well coordinated and resemble more a patchwork than a seamless fabric. As a result of this, our experience has been that some development proposals do not receive the appropriate type or level of review, and this inconsistency is frustrating to developers, citizens, and City staff.

As the City has grown over the last several decades and as times have changed, our zoning classifications and maps have not always kept up in response. New concepts and legal requirements, as well as revitalized old ideas, such as walkable communities, planned developments, new urbanism, diversity of housing and business opportunities, ecological and environmental sensitivity, and greater public participation are either not favored under the current ordinance or are difficult to accomplish. These innovations require a degree of flexibility in zoning regulations that Asheville's current regulatory system simply could not be amended to incorporate.

The proposed UDO represents the City's attempt to collect all regulations affecting land use in one place, regularize the processes, and reduce the time and paperwork involved in getting development proposals considered and acted upon. The proposed UDO likewise provides for a greater degree of public notification and involvement in the review processes than exists under the current City Code. The level of public participation and review processes proposed under the UDO is in fact much greater than what the law requires.

Beginning in the Winter, the Planning & Zoning Commission began formal consideration of the UDO text. Since then, the Planning & Zoning Commission and City Council have put in many hours, both in formal meetings and in informal discussions, considering the UDO text and maps. Many Council members have met or talked individually many times with citizens to hear their concerns. There were five community

presentations by City staff on the UDO, held in different parts of town. The City Council alone has had over 20 hours of public hearings on the UDO, and taken hours of public comment at its work sessions. There were two nights of joint meetings with the City Council and the Planning & Zoning Commission. The Planning & Zoning Commission has probably logged more meeting hours than City Council. The City staff has likewise met with many citizens outside of the normal meeting context. The concerns raised in those meetings have been brought to Council's attention.

The City Council is now ready to receive final public comments on the UDO, give it final consideration, and take final action on its adoption. In considering the text and maps up to this point, the Council has received and considered many suggestions regarding changes to the proposed final text and maps. These changes have been suggested by citizens, staff, the Planning & Zoning Commission, and the City Council. Council has agreed with many of these changes and they have been incorporated as revisions to the proposed final text and maps.

The first order of business tonight is to hear the Staff Report on the proposed final text and maps. Council will then reopen the public hearing that was continued from April 24 and take further public comment. After the close of the public hearing, the proposed final text and proposed final zoning classification maps will be open for Council consideration and debate, subject to the procedures that Council has established. Following that debate, Council will take a final vote on the text, followed by a final vote on the maps.

It should be emphasized that, in the process of making revisions to the proposed maps and text, Council has indicated its direction and wishes to staff either by consensus or by a non-binding, informal straw vote. No Council member is precluded by his or her previous vote or indication of consensus on any item from bringing that item or any other item before the Council for further consideration, in accordance with the procedures that have been established.

Planning & Development Director Julia Cogburn said that the notebook that was delivered to City Council earlier today contains the revised UDO text. She said that basically what staff has done since Council took an affirmative vote with respect to the UDO text draft, is to make the changes that Council had indicated and voted affirmatively needed to be made to the UDO text. They have also done a final editing job on the text. She explained that staff looked to clarify wording, improved definitions, moved things from one section to another to clarify (not changing anything substantively); made some corrections in terms of legal issues; and gone back through existing ordinances to make sure that staff had not lost anything without good reason from those existing ordinances. Those non-substantive changes are reflected in the notebook and staff does not feel Council needs to deal with those tonight. She suggested that, in addition to anything Council would like to revisit in terms of the text, three items from staff be revisited. It was her understanding that Council's previous motion indicated that it would take an affirmative vote of 5 members of Council to revisit the items. She felt all three were fairly minor in nature but substantive enough to warrant Council's attention. The suggested staff revisions are as follows:

1. Section 7-7-2. Initiation of Amendments. The following sentence be added at the end of Sec. 7-7-2: "Provided, however, that non-substantive changes to Appendix 7A Map and Plan Standards and

Appendix 7B Checklist for Applications may be made at the direction of the Director of Planning and Development."

2. Section 7-13-3. Signs Prohibited in All Zoning Districts. The following be added as a new letter "P". "P. Portable or moveable display signs."

3. Changes to the following sections of Article 8, General Use Districts. Changes are basically clean-up and to assure that uses permitted in one district are permitted elsewhere and in like districts and also to ensure that staff has not lost anything in the many revisions. These changes have been incorporated into the draft before City Council and are changes from the last draft Council reviewed.

Sections 7-8-2, 7-8-3 and 7-8-4, "Duplexes," "Quadraplexes" and "Triplexes" are listed as conditional uses.

Section 7-8-6 D. "Residential related commercial services" are deleted.

Section 7-8-8 B. "Shoe repair shops" have been deleted. "Repair and service businesses" has been added.

Section 7-8-9 B. "Civic, social service, and fraternal facilities" has been added. "Fraternal organizations" has been deleted.

Section 7-8-9 D. "Antenna" and "Restaurants" have been added.

Section 7-8-10 B. "Health and fitness facilities," "Instructional services" and "Other accessory structures" have been added. "Vocational and training schools" has been deleted.

Section 7-8-10 D. "Townhouses" has been added.

Section 7-8-11 B. "Recreational uses, commercial indoor" and "Instructional services" has been added. "Self-service cleaning businesses," "Services" and "Self-defense instruction" have been deleted.

Section 7-8-11 D. "Townhouses" has been added.

Section 7-8-12 B. "Instructional services" and "Retail gasoline sales" have been added. "Repair shops with no outside storage," "Services" and "Self-defense instruction" have been deleted.

Section 7-8-13 B. "Accessory Structures" has been added. "Bar, nightclubs" were moved from Sec. 7-8-13 B. to 7-8-13 D.

Section 7-8-14 B. "Instructional services" and "Accessory structures" has been added. "Bookstores," "Fraternity and sorority houses" were moved from 7-8-14 B. to 7-8-14 D.

Section 7-8-15 B. "Instructional services" and "Accessory structures" have been added. "Services" has been deleted. "Repair and service businesses" was moved from Section 7-8-15 B. to 7-8-15 D.

Section 7-8-15 D. "Adult establishments" and "Recycling collection centers" were added.

Section 7-8-16 B. "Instructional services," "Lumber yards" and "Accessory structures" were added. "Services" has been deleted.

"Repair and service businesses" was moved from Section 7-8-16 B. to 7-8-16 D.

Section 7-8-17 B. "Instructional services" and "Accessory structures" has been added. "Services" and "Retail gasoline sales" have been deleted.

Section 7-8-19 B. "Accessory apartments," "Bed and breakfast homestays," "Bed and breakfast inns," "Instructional services," "Lumber yards," "Motor freight terminals" and "Accessory structures" have been added. The old term "Bed and breakfast establishments" was deleted.

Section 7-8-20 B. "Accessory structures" was added. "Recycling and resource recovery" was deleted.

Vice-Mayor Field asked that staff revise Section 7-1-2. Purpose, according to revisions approved by City Council earlier. Ms. Cogburn stated that this was an oversight and would be corrected.

Regarding the maps, Ms. Cogburn then said that as a result of the May 13 and May 20 worksessions, Planning staff has compiled a list, which is attached hereto as "Exhibit A", of those issues which Council voted on in terms of map revisions. Items 1-49 were items for which Council either by consensus, or not bringing up a particular issue from the Planning & Zoning Commission discussion and recommendation, or by an affirmative unanimous vote indicated they would like to see change to the advertised maps. Items 50-58 are those items for which there was a split vote from Council for a change. These map revisions would be revisions from the map that was advertised in the newspaper and presented at the joint public hearing with the Planning & Zoning Commission. There were some items that Council discussed at the last worksessions where there were split votes and of the votes that were taken, the majority indicated that Council would not like to see a change. Those do not appear on Exhibit "A" but staff is prepared to discuss them again if Council chooses.

One item Council asked staff to research further was possibly changing the CBI to Neighborhood Business at the intersection of New Haw Creek and Beverly Roads. Staff determined that there would be two types of non-conformities at that intersection if Council zoned it to NB. The convenience store/hardware store would be non-conforming due to size; the upholstery shop would be non-conforming since the NB is very restricted in its permitted uses and that is not one; and, the real estate office would be non-conforming since offices are not permitted in NB.

The other item Council asked staff to research was the Arco Road neighborhood. Staff did meet with the petitioner and basically they were able to work out a compromise where staff could carve out an area that would be primarily single family in nature that is now zoned RM-6 and some RS-8. The area staff looked at for RS-4 was the area basically between Tunnel Road and New Haw Creek Road.

Mayor Martin said that the public hearing on the text and maps have been continued to this date by earlier Council action. At this time (6:31 p.m.), Council re-opened the public hearing. Speakers are reminded that the usual rules are in effect: Persons speaking for themselves will be limited to 3 minutes per speaker. Each speaker should identify him/herself and the particular matter or property about which they wish to speak. Persons speaking with respect to more than one property may be allowed additional time only in Council's discretion. Persons representing a group or organization will be

allowed to speak for 10 minutes, regardless of the number of individual items or properties that the group wishes to address.

Mayor Martin explained that the public should be urged not to repeat what another speaker may already have said with respect to any particular item. In observance of this, the Mayor may direct that no further comment be taken with respect to a particular item, and may shorten the time allotted to any individual speaker. Under State law, G.S. 160A-69 and 160A-81, and Council's own Rules, Council Rule 9, the Mayor is the presiding officer and controls the debate. Throughout the public hearing City staff responded to questions from Council and the public regarding their requested zoning changes.

Mr. Joe Adams, speaking on behalf of the Grove Park Sunset Neighborhood Association, requested City Council zone the area from I-240 to Chestnut Street CBI, not CBII. He also asked Council to zone the last two houses on the corner of Edwin and Gertrude Place RS-4, not RM-6.

Mr. Doug Brock requested the property on Hill Street be all zoned CBI with no RM-6.

Mr. Barry Edmundson, President of Appalachian Stove in the Emma section, asked Council to not zone their adjoining pieces of property residential - properties which they plan to further expand their business. PIN Nos. 9639.19-62-4295, 9639.18-31-8279 and 9639.18-31-5890.

Ms. Elizabeth Graham asked that the property at the Head of Montford (bordered by both Gudger and Hill street) not be zoned residential but be zoned CBI. PIN Nos. 9649.17-11-3138, portion of 5240, 2119 and 2170.

Mr. Ron Dame, Edgewood Road resident, asked that the parcel at the bottom of Chatham Road be zoned RS-8, not RM-16. PIN No. 9649.06-36-1040.

Ms. Mary Jo Brezny, speaking on behalf of the Montford neighborhood, urged Council to zone the property in the Hill street as was on the original maps presented at the North Asheville Library - which was basically a strip of office about one lot deep along Hillside, leaving RM-6 between the office and the schools.

Mr. Derwin Williams, representing the Oakley Neighborhood Association, asked the large piece of property that is divided by Broadview Drive be zoned RS-4, not RS-8. He presented Council with a copy of the map with the requested change.

Mr. Doug Wilson, member on the Board of Directors of RiverLink, said that following the Council worksession on May 13, he met with Mr. Sternberg and many of the riverfront property owners. It has become clear to the RiverLink Board members that there has been a lack of communication and some misunderstanding regarding the River District zoning as it pertains to many of the riverfront property owners. We believe that the process must include the riverfront property owners, the City of Asheville, RiverLink and the citizens to accomplish our goals in riverfront revitalization efforts. He thanked the Planning & Zoning Commission, Planning staff and City Council that voted for the current wording of the UDO. We feel they sincerely intended to do the best thing for the City of Asheville and the riverfront district.

RiverLink tried to cooperate, but it has become apparent that many people have felt left out of the process. Therefore, our Board recommends that the UDO go back to the original wording for the River District, i.e., a list of prohibited uses with other things not listed as prohibited being permitted. From the original wording, the two things that we have discussed and agreed upon should be included on the list of prohibited uses was asphalt plants and papermills. We believe this step is necessary to clear the air and open communications among all the parties involved in this revitalization effort. We recognize the River District is a very large district and has many different uses on it and deserves further study, work and planning which they look forward to doing with the City, with the riverfront property owners and others. We believe that the Swannanoa and French Broad River valley corridors represent the next great opportunity in the City of Asheville and we look forward to doing our part in working to make them a great place to live, work and play for all the citizens of Asheville.

Mr. Jerry Sternberg, representative of the river property owners in both the French Broad and the Swannanoa River basins, thanked Mr. Wilson and RiverLink for helping to bring about an agreement that everyone can live with. He pledged to Council, RiverLink and to the community the full cooperation of the river property owners in any further plans that they have to upgrade the river. We would be particularly interested in the specifics of any plan that you have there and we pledge to try to work with you to bring the river to a level that will suit all the citizens of this community. He thanked Council, in advance, for returning the River District back to the original wording as outlined above by Mr. Wilson, with the two prohibitions of asphalt plants and papermills being included in the list of prohibited uses.

Pastor W. H. Hutchison, 27 Eagle Street, asked Council to zone properties in the Hill Street CBI, not residential. He also asked his property on Clingman Avenue be zoned commercial, not residential.

Mr. Mike Ward, resident of Albemarle Park District and Albemarle Park representative to the Charlotte Street Small Area Plan, asked Council to zone the area from I-240 to Chestnut Street CBI, not CBII.

Mr. Lowell Pearlman, owner of Pearlman's Carpet at 80 Charlotte Street, asked that Council keep the area on Charlotte Street from I-240 to Chestnut Street zoned CBII.

Mr. Cliff Feingold asked that his property between 289 East Chestnut Street and 95 Charlotte Street be zoned to allow him to build a professional (dental) office on that undeveloped land. PIN No. 9649.15-63-2080.

At 7:21 p.m., Mayor Martin announced a 30-minute recess.

Ms. Beth Maczka voiced concern over the reduction of multi-family housing, both through zoning to single-family and through encroachment of office business and industrial uses into neighborhoods. She asked Council to zone her Norwood neighborhood, in particular the area of Farrwood and Garden Terrace and Vineyard to a multi-family designation, not single-family. She hoped that when Council revisits the UDO in the future that Council appoint a citizens advisory committee that would include people from the neighborhoods, affordable housing advocates and the business community.

Mr. Richard Kerber, resident of the Albermarle/Charlotte Street area, asked Council to zone the area on Charlotte Street from I-240 to Chestnut Street to CBI, not CBII.

Mr. Freddie Mitchell, resident of Asheville, asked that property on Clingman Avenue be zoned commercial, not residential.

Mr. Craig Justus, attorney representing the Hildebrand family, said that on May 20 City Council informally proposed, for the two Hildebrand properties, an OB designation for the northern piece and an RM-6 designation for the southern portion. It was his understanding that the intent behind the RM-6 zone was to block off office or commercial traffic from Beaucatcher Road. Since that meeting he has spoken with Mrs. Long in Florida, who has the controlling interest in that southern parcel, and she would like to request a 75 foot buffer zoned RM-6 which would keep commercial and office traffic off Beaucatcher Road and that the rest of the property (including the northern piece) be zoned OB.

Mr. Larry Holt, Farrwood Avenue resident, supported changing his neighborhood to multi-family designation.

Ms. Ellen Johnson, Beaucatcher Road resident, urged Council to support the zoning of the northern piece of Hildebrand property OB and the entire southern piece of Hildebrand property RM-6.

Mr. Pete Hildebrand, resident in Chunns Cove, urged Council to zone the northern and southern pieces of Hildebrand property on Beaucatcher Road to OB with a 75 foot buffer zoned RM-6 on the southern piece.

Ms. Bernie Wolfe, President of the Albemarle Park Neighborhood Association, asked that (1) Item No. 52 (Crescent Street area) on Exhibit "A" be zoned RM-8; (2) Item No. 51 (East Chestnut Street/Furman Avenue area) be zoned RM-8; (3) Item No. 45 (Arlington Street) be zoned RS-2; (4) Item No. 15 (276 East Chestnut Street) not be zoned CBI; and (5) the area on Charlotte Street from I-240 to Chestnut Street be zoned CBI.

Mr. Clarence Birmingham, property owner of 14 lots on Clingman Avenue, urged Council to zone his property commercial, not residential.

Mr. Jerry Bailey, 247 Charlotte Street, asked staff to confirm, and Ms. Cogburn did, that the Charlotte Street charette was not the end result of a year of discussion.

Ms. Jane Hildebrand, resident in Chunns Cove, urged Council to zone the northern and southern pieces of Hildebrand property on Beaucatcher Road to OB with a 75 foot buffer zoned RM-6 on the southern piece. She also stressed that a 20-25 foot buffer will also be required.

Ms. Maurie McClure, resident on Beaucatcher Road, asked Council to support the zoning of the northern piece of Hildebrand property OB and the entire southern piece of Hildebrand property RM-6. She also read a letter from a resident at 437 Beaucatcher Road who also requested the northern piece of Hildebrand property be zoned OB and the entire southern piece of Hildebrand property be zoned RM-6.

Mr. Chris Knorr, 273 Murdock Avenue, spoke in support of the Norwood Park Avenue area (approximately between Norwood Avenue and Farrwood off of Murdock Avenue) being zoned RS-8.

Ms. Betsy Simpson, Montford resident, reminded Council of the petition she submitted last week with 44 signatures, asking that the area along Hill Street, zoned office on the current UDO maps, be reduced to the smaller size that was on the original UDO maps presented at the North Asheville Library. The original area was smaller and between the office district and Randolph School there had been some resident.

Ms. Quanita Landolfi, resident on Orchard Road, asked Council to zone the area on Charlotte Street from I-240 to Chestnut Street to CBI, not CBII.

Ms. Jeanie Warner, 67 Cherokee Road, asked Council to zone the area on Charlotte Street from I-240 to the Manor Inn to CBI, not CBII. She also asked that Council retain the designation of RM-8 in the East Chestnut/Furman Avenue and Crescent Street areas (Item Nos. 51 & 52).

Mr. Jerry Sternberg, resident of 400 Charlotte Street, spoke in favor of zoning the portion on Charlotte Street from I-240 to Chestnut Street CBII.

Ms. Peggy DeBell, 131 Arlington Street, asked Council to zone the area on Charlotte Street from I-240 to Chestnut Street to CBI, not CBII. She was also concerned about the big jump from RS-2 to RS-8 on Arlington Street (Item No. 45).

A resident from 60 Terrace Road said that by voting for CBII or CBI on Charlotte Street, Council is already receptive to requests that will arise in the future for changing the residential property. He hoped Council would vote for where they see the trends of change happening on Charlotte Street.

Mr. Rick Hulme, 414 Beaucatcher Road, urged Council to support the zoning of the northern piece of Hildebrand property OB and the entire southern piece of Hildebrand property RM-6.

Mr. Jonathan Guest, Falconhurst resident, suggested keeping the review thresholds like they are, but to work with neighborhood organizations, CAN, developers and other interests to structure that review process.

Mr. Fred H. Martin, 11 Spring Park Road and President of the Kenilworth Forest Community Club, asked that the small section on the northern part of the Kenilworth Forest area that is now designated RM-16 be zoned RS-4.

Ms. Leni Sitnick, 90 Gertrude Road, asked Council to zone the last two houses on the corner of Edwin and Gertrude Place RS-4, not RM-6. She hoped (1) the designation on Charlotte Street will protect everybody's investment on Charlotte Street; (2) the UDO is used fairly, that it's used in balance, that it's used even-handedly and that it invites all of the players to the table; (3) the UDO will eliminate the need for variances except in hardship cases; (4) the UDO will eliminate the setting of bad precedence; (5) the UDO is strongly enforced, both by political will and by funding; (6) the UDO takes into consideration the informing of various advisory boards, for instance the Tree/Greenway Commission, prior to decisions made by Council, by the Planning & Zoning

Commission and by the Board of Adjustment; and (7) the UDO will be reviewed and revised as necessary and that the Council will keep the public in this process. She requested a new designation in the Use Districts - "P" for parks.

Ms. Kathy Gibbs, 107 Orchard Road, said that it seems like the neighborhood is fighting the same issue of big business year after year on Charlotte Street. She spoke to the issue of not zoning property on Charlotte Street CBII.

Mayor Martin closed the public hearing at 9:02 p.m.

Mayor Martin then said that at the April 24 meeting, following the public hearing on the text, the City Council voted to close its debate on the text unless there was a vote by five members of the Council to reopen the debate. Thus, in order to reopen Council's debate on any part of the text, a motion will be required indicating specifically that part of the text to be further considered or debated, and this motion would have to pass by an affirmative vote of five members of the Council.

The Planning Staff has come up with several suggested substantive changes which it deems important enough to require Council action at this meeting. It is suggested that staff be asked to identify what those changes are and that there be a motion and vote in order to allow for further consideration by Council. This would also be the appropriate time for Council members to request consideration of any additional proposed revisions to the text. Further consideration by Council with respect to any proposed text changes should follow the form that was established at earlier meetings: discussion, questions for Staff, consensus or straw vote. Any further revisions coming out of this process will be incorporated into the final proposed text.

Councilman Worley moved to re-open the text to discuss the three staff items. This motion was seconded by Councilman Hay and carried unanimously.

Staff Item No. 1. Section 7-7-2. Initiation of Amendments. The following sentence be added at the end of Sec. 7-7-2: "Provided, however, that non-substantive changes to Appendix 7A Map and Plan Standards and Appendix 7B Checklist for Applications may be made at the direction of the Director of Planning and Development." Councilman Hay moved to amend the text in Section 7-7-2. This motion was seconded by Councilman Worley and carried unanimously.

Staff Item No. 2. Section 7-13-3. Signs Prohibited in All Zoning Districts. The following be added as a new letter "P". "P. Portable or moveable display signs." Vice-Mayor Field moved to amend the text in Section 7-13-3. This motion was seconded by Councilman Hay and carried unanimously.

Staff Item No. 3. Changes to the following sections of Article 8, General Use Districts as follows:

Sections 7-8-2, 7-8-3 and 7-8-4, "Duplexes," "Quadraplexes" and "Triplexes" are listed as conditional uses.

Section 7-8-6 D. "Residential related commercial services" are deleted.

Section 7-8-8 B. "Shoe repair shops" have been deleted. "Repair and service businesses" has been added.

Section 7-8-9 B. "Civic, social service, and fraternal facilities" has been added. "Fraternal organizations" has been deleted.

Section 7-8-9 D. "Antenna" and "Restaurants" have been added.

Section 7-8-10 B. "Health and fitness facilities," "Instructional services" and "Other accessory structures" have been added. "Vocational and training schools" has been deleted.

Section 7-8-10 D. "Townhouses" has been added.

Section 7-8-11 B. "Recreational uses, commercial indoor" and "Instructional services" has been added. "Self-service cleaning businesses," "Services" and "Self-defense instruction" have been deleted.

Section 7-8-11 D. "Townhouses" has been added.

Section 7-8-12 B. "Instructional services" and "Retail gasoline sales" have been added. "Repair shops with no outside storage," "Services" and "Self-defense instruction" have been deleted.

Section 7-8-13 B. "Accessory Structures" has been added. "Bar, nightclubs" were moved from Sec. 7-8-13 B. to 7-8-13 D.

Section 7-8-14 B. "Instructional services" and "Accessory structures" has been added. "Bookstores," "Fraternity and sorority houses" were moved from 7-8-14 B. to 7-8-14 D.

Section 7-8-15 B. "Instructional services" and "Accessory structures" have been added. "Services" has been deleted. "Repair and service businesses" was moved from Section 7-8-15 B. to 7-8-15 D.

Section 7-8-15 D. "Adult establishments" and "Recycling collection centers" were added.

Section 7-8-16 B. "Instructional services," "Lumber yards" and "Accessory structures" were added. "Services" has been deleted. "Repair and service businesses" was moved from Section 7-8-16 B. to 7-8-16 D.

Section 7-8-17 B. "Instructional services" and "Accessory structures" has been added. "Services" and "Retail gasoline sales" have been deleted.

Section 7-8-19 B. "Accessory apartments," "Bed and breakfast homestays," "Bed and breakfast inns," "Instructional services," "Lumber yards," "Motor freight terminals" and "Accessory structures" have been added. The old term "Bed and breakfast establishments" was deleted.

Section 7-8-20 B. "Accessory structures" was added. "Recycling and resource recovery" was deleted.

Councilman Hay moved to amend the above sections in Article 8. This motion was seconded by Councilman Cloninger and carried unanimously.

Vice-Mayor Field asked if a vote would be required amending Section 7-1-2. Purpose, according to revisions approved by City Council

earlier. City Attorney Oast said that Council did approve the language Vice-Mayor Field recommended and the fact that it was not included in the text before Council tonight is an oversight. He said there is no vote necessary to be taken to include that language in the ordinance.

Councilman Worley moved to re-open the text to discuss the River District. This motion was seconded by Councilman Skalski and carried on a 6-1 vote with Councilman Cloninger voting "no".

Vice-Mayor Field said that the River District text is an excellent example and strong model of how people can get together and come to a compromise.

Councilman Skalski moved to (1) restore the River District language to its original text before November, 1996, (2) add asphalt plants and the papermills to the list of prohibited uses; and (3) amend Sec. 7-8-18 F. 12 (design and operation standards) as follows:

"The speculative grading of land within the River District is prohibited. Natural slopes in excess of forty-five degrees (45 deg.) shall not be graded and the existing vegetation shall not be removed.

River Resource Yard - A river resource yard equal to twenty percent (20%) of the lot depth, with a maximum depth of fifty (50) feet and a minimum depth of twenty (20) feet shall be required of those properties fronting the French Broad River and Swannanoa River banks for all new development on these lots. This river resource yard is to be measured from the top of the banks of the rivers. Existing continuous tree stands shall be preserved to stabilize the river banks. Selective pruning or removal of diseased trees and shrubs in the river resource yard is permissible, provided that a live root system stays intact to provide for bank stabilization. erosion control. and improved water quality.

Uses located within the River District shall be subject to the noise standards set forth in the City's Noise Ordinance (Article IV of the Code of ordinances of the City of Asheville, Sec. 10-81 through Sec. 10-83). No new outdoor loud systems shall be allowed within the River District.

Exposed sources of light shall be shielded so no direct beam of light crosses lot lines. The top of light fixtures shall not exceed thirty (30) feet in height in parking lots and free standing poles, and, where affixed to structures, shall not exceed the top of such structures.

Outdoor storage of materials is prohibited in the required front setback and within fifty (50) feet of a residential district.

River District Design Guidelines: All construction work requiring building, sign, demolition, and zoning permits and projects requesting a variance within the River District shall be subject to a mandatory review/voluntary compliance procedure to address compliance with the River District Design Guidelines as set forth

in the adopted Riverfront Plan and the Riverfront Open Space Guidelines."

This motion was seconded by Councilman Worley.

Councilman Cloninger said that while he welcomed the pledge of cooperation between RiverLink and the riverfront owners, he was going to vote against this motion. City Council should stick to the fair and reasonable River District language Council adopted in April. We should not pass River District language that will make the City vulnerable to another situation like we had with the proposed asphalt plant. With the passage of this motion we will subject ourselves to that same vulnerable situation. The language we passed in April grandfathers all existing uses along the river, but at the same time provides a safety valve which allows us to prevent new industry that poses a danger to the health and safety of our citizens from locating along the river. The language proposed in this motion before us now provides us with no such protection. The language in this motion does include a short list of prohibited uses that would not be allowed along the river, including asphalt plants. However, any use not on that prohibited list would be allowed along the river, even if it is not allowed in any other part of the City, and the City will be powerless to stop it - no matter how dangerous that use may be. This would create both an unreasonable and unnecessary risk to the public. It makes no sense to pass language that forces the people of Asheville to keep their fingers crossed and hope that nothing dangerous locates along the river when we on City Council have a fair and reasonable means to prevent it. Our decision today should be guided by what is in the overall best interests of the people of Asheville. He believed that those interests are best served by sticking with the language we approved in April.

Councilman Skalski felt that the reason the UDO took so long was for participation by all the players.

Vice-Mayor Field said that since the current ordinance has been in effect since the late 1970's, Council has had only one issue of an asphalt plant and they managed to deal with that issue.

Councilman Cloninger reminded Council that there are only 9 items on that prohibited list. He said that the list Council passed back in April had many more prohibited items. He asked if representatives of the riverfront owners would say that our hands are completely tied from this day forward to ever add to that list of prohibited uses or whether they would acknowledge that we would have certainly the right to add to that list as we become aware of uses that we would not want to allow. He asked Mr. Sternberg his position on that.

Mr. Sternberg said that there are more than 9 prohibited uses. However, he thought that "it was within the purview of this Council that anytime to amend this ordinance to put in a prohibition if they see fit. It's still the responsibility of Council to protect the public. If someone proposes a nuclear plant - there's no way you're going to put it in. There's always a lot of talk about clean industry in this area. There is no such thing as dirty industry anymore. You put up a dirty industry and you're going to go to the penitentiary. I can tell you that right now - the federal government protects you, if nothing else. But I see no reason at all that if there is somebody that finds a use that is so erroneous that it's going to affect the whole community, the City Council has every right and every responsibility to make it prohibited. I think the example of the asphalt plant was a perfect example of how public opinion drove out an industry that was permitted because it was considered to erroneous by all the citizens. Nobody ever

said that this community is going to be free of controversy. But nobody ever said also that people of good will, such as this Council and the citizens of this community, can agree when something is seriously negative to the community."

Councilman Cloninger said that what he was going by for the 9 uses is from a letter Mr. Sternberg wrote April 2, 1997, to RiverLink in which Mr. Sternberg listed about 9 items which he assumed were the same items that was in the original proposal.

Councilman Cloninger asked Councilmen Skalski and Worley if they would consider amending the list of prohibited uses to those which Council passed in April. He noted that he was against this motion regardless, but he did ask that if this motion passes, which it appears that it will, that the least this Council could do is make that list of prohibited uses as extensive as we had planned to make it with what Council passed in April.

When Councilman Cloninger inquired about what uses are on the prohibited list, Senior Planner Gerald Green said that asphalt plants and papermills were added. Also, at the request of CP&L, utility substations was deleted from the list of prohibited uses. Mr. Sternberg said that stockyards were on the prohibited use, but they have asked that it be withdrawn.

Ms. Cogburn read the list of prohibited uses as follows: asphalt plants; automobile salvage yards, excluding automobile parts recycling when conducted in an enclosed building; businesses manufacturing or storing materials listed as H1 hazardous materials in Sec. 4-8.1 of the 1991 North Carolina State Building Code (1993 Revisions); gas manufacturing; manufacture or storage of ammunition, dynamite, or other high explosives; mining; papermills; slaughter houses; solid waste landfills; and uses prohibited by the Asheville Flood Protection Standards.

Councilman Cloninger said that what's happened in the last two-three months is a classic example of the weakness in what the motion is going back to. Papermills just came up tonight - no one had thought of it. He guaranteed that there are a lot of other items that haven't been thought of and when someone does try to locate them on the river, if this motion passes, our hands will be tied completely. He wanted to make sure the public is very aware of that.

The motion made by Councilman Skalski and seconded by Councilman Worley carried on a 6-1 vote, with Councilman Cloninger voting "no".

Councilman Skalski moved to re-open the text to discuss the thresholds for review of larger projects. This motion died for a lack of a second.

Councilman Cloninger commented that on several of the threshold limits he voted for lower standards than what was ultimately passed. However, he didn't think there would be any purpose served in trying to proceed with that again tonight.

Councilman Skalski said the increases that are proposed in the UDO go anywhere from 400-800 percent over what we have now in the current zoning ordinance. He feels very strongly about public participation in government and if we are going to take 80% of the site development out of the purview of the public, he wouldn't be able to support it.

Mayor Martin called for a motion relative to the adoption of the proposed final text of the Unified Development Ordinance with revisions made as a result of direction given at tonight's meeting. The motion will be to repeal several existing sections of the City of Asheville Code of Ordinances and to replace them with the Unified Development Ordinance. The ordinance is proposed to be effective upon its adoption, subject to adoption of the proposed new zoning classification maps. He said that even though it will take a few minutes, it would be a good idea to have a staff member read the complete motion and provide any further explanation that the Council desires.

City Attorney Oast read the ordinance to enact new development regulations and to consolidate the current and the new development regulations into a Unified Development Ordinance.

Councilman Worley moved for the adoption of Ordinance No. 2369 as read by City Attorney Oast. This motion was seconded by Vice-Mayor Field and carried on a 6-1 vote, with Councilman Skalski voting "no".

ORDINANCE BOOK NO. 16-PAGE 201 (COMPLETE TEXT-IN FREESTANDING UDO BOOK)

Regarding the maps, Mayor Martin said that there will be three votes: The first vote will be to adopt the original proposed map which has been contained in all public notices. The second motion will be to adopt the proposed list of revisions to that map, with whatever additional revisions Council has indicated it wishes to make. Because the law requires it, each of the proposed revisions will be identified by staff at least by a brief description, but these revisions may be voted on as a group, and no individual votes need be taken. Finally, there will be a third vote to adopt the maps as revised. This last vote will be the vote that implements the proposed zoning changes.

Councilman Cloninger said that since this is the first time Mr. Edmundson, from Appalachian Stove, has raised his concern about the mapping and since staff has not had an opportunity to review his request, he suggested Mr. Edmundson to go through the normal rezoning procedure and then moved to waive Mr. Edmundson's fee to apply for a rezoning request. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Cloninger then suggested (for the same reasons as outlined above for Mr. Edmundson) Mr. Feingold go through the normal rezoning procedure and then moved to waive Mr. Feingold's fee to apply for a rezoning request, if such rezoning request is received within 60 days from today. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Cloninger then moved to amend his prior motion relative to Mr. Edmundson with the fee waiver being contingent upon receipt of the rezoning request within 60 days from today. This motion was seconded by Councilman Sellers and carried unanimously.

The following map revision items were raised by individual Council members and discussed with information provided by Planning staff:

Councilman Sellers moved to rezone the Deaverview Road property from RM-16 to CI. This motion was seconded by Councilman Worley and carried on a 4-3 vote, with Councilmen Cloninger, Hay and Skalski voting "no".

Councilman Worley moved rezone the Arco Road property according to the compromise staff and the petitioner reached (basically property fronting on both sides of New Haw Creek Road extending south from New Haw Creek Road to the northern border of the commercial zoning on Tunnel Road) from RS-8 to RS-4 and RM-6. This motion was seconded by Councilman Skalski and carried unanimously.

Councilman Sellers moved to rezone the small section in the northern part of Kenilworth from RM-16 to RS-8. This motion was seconded by Councilman Skalski. Said motion failed on a 3-4 vote with Vice-Mayor Field and Councilmen Cloninger, Hay, Worley voting "no".

Councilman Worley moved to rezone the small section in the northern part of Kenilworth from RM-16 to RM-8. This motion was seconded by Councilman Cloninger and carried unanimously.

At 10:00 p.m., Mayor Martin announced a five minute break.

Councilman Skalski moved to rezone a small piece of property between Stoner Road and the current property owned by the Slosman Corporation from RM-8 to CI. This motion was seconded by Councilman Worley and carried unanimously. PIN No. 9647.08-89-9932.

Councilman Hay moved to rezone the two houses on the corner of Edwin and Gertrude Place from RM-6 to RS-4. PIN Nos. 9649.11-55-5664 and 5723. This motion was seconded by Councilman Worley and carried unanimously.

Vice-Mayor Field moved to rezone the property (1.9 acres) just to the north of the Rhodes property from RM-16 to RM-8. This motion was seconded by Councilman Cloninger and carried on a 6-1 vote with Councilman Sellers voting "no". PIN Nos. 9649.06-38-1010 and 1807.

Vice-Mayor Field moved to rezone 100 feet of the southern piece of Hildebrand property on Beaucatcher Road to RM-6 and the rest of the southern piece along with the northern piece of Hildebrand property be rezoned to OB. This motion was seconded by Councilman Sellers.

Councilman Worley offered a substitute motion to rezone 75 feet of the southern piece of Hildebrand property on Beaucatcher Road to RM-6 and the rest of the southern piece along with the northern piece of Hildebrand property be rezoned to OB. This motion was seconded by Councilman Sellers. Said substitute motion failed on a 3-4 vote with Vice-Mayor Field and Councilmen Cloninger, Hay and Skalski voting "no".

Mayor Martin then called for a vote on the main motion to rezone 100 feet of the southern piece of Hildebrand property on Beaucatcher Road to RM-6 and the rest of the southern piece along with the northern piece of Hildebrand property be rezoned to OB. This motion carried on a 5-2 vote, with Councilmen Sellers and Skalski voting "no". PIN Nos. 9659-05.08.1285 (100 foot portion of southern piece being zoned RM-6).

Councilman Sellers moved to rezone property on Clingman Avenue (14 lots) from RM-8 to CI. This motion died for a lack of a second.

Councilman Hay moved to rezone the property (12 acres) on the west side of Broadview from RM-8 to RS-8. This motion was seconded by Councilman Cloninger and carried unanimously. PIN No. 9657-08.88-6104.

It was stressed that City Council is committed to the overlay district on Charlotte Street which will impose restrictions with a lower density than the CBII. City Council also expressed disappointment with

the inappropriate comments addressed to them during this past week with regard to this issue.

Councilman Skalski moved to leave the zoning on Charlotte Street north of Chestnut Street CBI and rezone the area on Charlotte Street south of Chestnut Street to I-240 from CBII to CBI. This motion was seconded by Councilman Hay. Said motion failed on a 2-5 vote, with Mayor Martin, Vice-Mayor Field and Councilmen Cloninger, Sellers and Skalski voting "no".

Councilman Cloninger moved to request Planning staff to report to City Council within 90 days with a proposed overlay district plan for the area on Charlotte Street at least south of Chestnut Street to I-240. This motion was seconded by Councilman Worley and carried unanimously.

Vice-Mayor Field moved to rezone Farrwood from a single-family to a multi-family neighborhood. This motion died for a lack of a second.

Mayor Martin reiterated that there will be three votes on the mapping. The first vote will be to adopt the original proposed map which has been contained in all public notices. The second motion will be to adopt the proposed list of revisions to that map, with whatever additional revisions Council has indicated it wishes to make. Because the law requires it, each of the proposed revisions will be identified by staff at least by a brief description, but these revisions may be voted on as a group, and no individual votes need be taken. Finally, there will be a third vote to adopt the maps as revised.

Councilman Worley moved that City Council adopt for consideration the final proposed new zoning classification maps as prepared and presented by staff, and as published in the official public notices for this public hearing. This motion was seconded by Vice-Mayor Field and carried on a 6-1 vote, with Councilman Skalski voting "no".

Councilman Hay moved that City Council adopt for consideration the following revisions to the final proposed new zoning classification map:

1. Park Avenue - PIN No. 9638-08-98-7068 from CI to RM-8
2. Parkway Forest (basically the entire Parkway Forest Subdivision including portions of Oteen Church Road, Grandview Road, Browndale Road, Wagon Road, Birchwood Lane and Pleasant Ridge Road and surrounding properties) from RS-8 to RS-4.
3. The north end of Chunns Cove (basically the area including Utopia Road and Apache Trail and surrounding properties east of Chunns Cove Road and south of Covewood Subdivision) from RM-6 to RS-2.
4. West portion of the lot in Blake Mountain Estates - PIN No. 9655-13-14-3568 - from RM-6 to RS-2.
5. Single lot on Cornell Street - PIN No. 9647-20-91-7169 from RS-4 to Office.
6. 87 Riverside Church Road - PIN Nos. 9639-10-26-9864; 9639-10-36-0766 and 2905; 9639-10-37-0380 and 2320 to Manufactured Housing overlay.
7. Malvern Hills Area (area shown in light green on the advertised maps bounded by Bear Creek Road to the east, Windover Drive to the south and west and the commercial district along Patton Avenue to the north) from RS-8 to RS-4.
8. Falconhurst Area (area shown in light brown on the advertised map roughly the area bounded by Logan Avenue on the east, bordered to the south by Haywood Road and north Patton Avenue and on the west by Mitchell and Druid) from RM-8 to RS-8.
9. North end of Vermont Avenue from the existing RS-8 boundary from RM-8 to RS-8.

10. Vivian Road/Nantahala Street - PIN Nos. 9649-09-15-4974; 9649-09-16-0734, 2885, 7196 and 7270; and 9649-09-17-3141 from RM-8 to Institutional.
11. Portion of the Grove Park Inn property on the east side of Macon Avenue - PIN No. 9649-07-79-4703 from Resort to RS-2.
12. South side of Ottari Road - PIN Nos. 9740-18-42-7296, 8263, 9189 and 9211; 9740-19-52-0147, 1100 and 1212 from RM-8 to RS-8.
13. East Asheville Recreation Center on Tunnel Road - PIN No. 9658-12-87-6254 from RS-4 to CBI.
14. 1 Logan Avenue - PIN No. 9638-12-86-7975 from RM-8 to River.
15. 276 East Chestnut Street - PIN No. 9649-15-63-1258 from RM-8 to CB1.
16. I-40/NC 191 - PIN Nos. 9627-12-97-5330 and 9637-05-07-1739 from RM-8 to Highway Business.
17. Trinity Industries - portion of southwest corner of PIN No. 9639-14-44-8846 from Institutional to Industrial.
18. Biltmore area - PIN No. 9647-08-89-9932 from RM-8 to CI.
19. Old Haywood Road - portion of PIN No. 9628-17-11-5571 south to Patton from RM-8 to Highway Business.
20. Westwood/I-240 - PIN No. 9638-07-78-2505 not currently zoned to Highway Business.
21. Wood Avenue - PIN No. 9658-14-32-7900 from River to Commercial Industrial.
22. Yorkshire Street - PIN Nos. 9647-12-85-6923; 9647-12-86-5192 and 3100 from RS-8 to Office.
23. 304 Cisco Road - PIN Nos. 9659-19-52-8006; 9659-15-62-1546 and 9659-15-63-1315 from RS-2 to RS-4.
24. Oteen Church Road (area that is shown on the advertised maps in light brown - area south of Grandview on the west side of Oteen Church Road, south to Old Lake Craig site and bounded by Azalea Road on the west) from RM-8 to RS-2.
25. Iris and Shady Oak Drive (area bounded by Iris to the east and Shady Oak to the west) from RM-8 to RS-8.
26. Wedgefield Drive property - PIN Nos. 9626-07-67-9777 and 9626-07-77-0962; 9626-07-78-1076, 2157, 3228 and 4307 from Office to CBI.
27. Beaverdam Road - PIN Nos. 9750-05-07-1617 and 9750-09-07-8252 from Neighborhood Business to RS-4.
28. West Chapel/Oakley School Road - PIN No. 9657-18-41-6459 from RS-8 to Industrial.
29. Hendersonville Road (west of Hendersonville Road from Miller Avenue north, south to Rosscraggon Road) from Institution to Highway Business.
30. West End/Clingman (Pioneer Welding site) - PIN Nos. 9648-05-08-0068 and 2121 from Commercial Industrial to RM-8.
31. Arco Road (from Tunnel Road on the south to New Haw Creek Road to the north including Arco Road) from RM-6 to RS-4; PIN Nos. 9658-11-77-1168 and 3004 from RS-8 to RM-6; and small section to go from RS-8 to RS-4.
32. Sand Hill Road - PIN No. 9627-17-12-1184 from RS-2 to Industrial.
33. Hill Street - PIN Nos. 9649-17-11-2119 and 3138; and northern portion of 9649-17-11-5240 which does not abut Hill Street from Office to RM-8.
34. Sand Hill Road - PIN Nos. 9617-16-83-0548 and 9617-16-83-0849 from Office Business to Commercial Industrial.
35. I-40/US 19/23 - PIN Nos. 9617-07-69-2067 and 9617-07-58-0377 from Highway Business and RM-8 to Commercial Industrial.
36. Pond Road (Trueblood property) - PIN No. 9627-19-61-3826 from RS-2 to Commercial Industrial.
37. Property along Leicester Highway that is currently a salmon color on the advertised maps, the strip south and across from Camelot Subdivision - one lot deep bounded by Highway Business Districts on both ends from RM-6 to CBII.

38. Jackson Park/Woolsey area (properties that are currently shown in light brown on the advertised maps going north to south along Lookout Drive, Fenner Avenue, Maney Avenue, Edgewood, south along Barnard including properties along Lee and Sevier Streets excluding the multi-family development at the southwest corner of Barnard and Edgewood from RM-8 to RM-6 and RS-8.
39. Arlington Street - PIN Nos. 9649-15-62-4667, 5615, 5675 and 5752; PIN No. 9649-19-62-4408, 4478, 5428 and 5478 from Office to RS-8.
40. Old County Home Road - PIN No. 9629-18-31-5705 from RM-6 to CBII.
41. Albemarle Road and Place (area shown in light brown on the advertised maps east of the commercial properties abutting Charlotte Street, properties along Albemarle Road, Albemarle Place, Baird Street, excluding the Von Ruck Apartments, from RM-8 to RS-8.
42. Blue Ridge Avenue - PIN Nos. 9638-09-05-2827, 2912, 2917 and 3937; 9638-09-06-0030, 0127, 2023 and 2039; 9638-09-06-2195 and 2291 from RM-8 to RS-8.
43. Vance Crescent, Brevard Road, Olney Road, Rex Street, Davenport Road, Vance Crescent Extension and Sand Hill Road area from RM-8 to RS-8.
44. Beaverdam Road - PIN Nos. 9740-14-43-7492 and 9587 from Office to RM-8; and 9740-15-53-1108 from Office to CBI.
45. Arlington Street - PIN No. 9649-15-72-3700 from RS-2 to RS-8.
46. Sweeten Creek Road & I-40 - PIN No. 9657-10-25-5042 from Industrial to Commercial Industrial.
47. Southern portion of Kenilworth bounded to the west by the institutional properties along Biltmore Avenue, south by the River District and the institutional properties of A-B Tech on the east by East Shore Drive and Lake Kenilworth on the north mapped single-family zone districts and including among the streets in that area Forest Hill Drive, Thurland, Lenoir, Lakewood Drive and Dunkirk from RM-6 to RS-8.
48. Riverview Drive (Barlas property) - PIN No. 9638-20-82-7087 from RS-2 to RS-4.
49. Merrimon Avenue - PIN No. 9730-12-85-8726 from RS-4 to CBI.
50. South side of Broad Street - PIN Nos. 9649-14-43-9468 and 9558; 9649-15-53-0547, 0597, 1415, 1419, 2453, 2457, 2545 and 2594 from RM-8 to Office.
51. East Chestnut Street/Furman Avenue area - PIN Nos. 9649-15-63-0070, 2245, 2080 and 4263; 9649-15-62-3969, 4800, 4928, 4979, 5758 and 5965 from RM-8 to RM-16.
52. Crescent Street area (basically area that is shown in light brown on the advertised maps bounded on the east by commercial properties along Charlotte, on the north by Lenox and Murdock, on the west by RM-8 properties along Madison Street, and on the south by the non-residential properties on Broad Street from RM-8 to RM-16.
53. Merrimon Avenue (Rhodes property) - PIN No. 9649-10-37-2444 from RM-8 to RM-16 and CBI.
54. North Louisiana Avenue - PIN Nos. 9638-05-19-9941 and 9978; eastern portion of 9639-17-10-8679; 9639-17-10-9171, 9285 and 9639-17-20-0305 from RM-6 to Office Business.
55. Hazel Mill Road - PIN Nos. 9639-17-00-9007 and 9415 from RS-2 t RM-6.
56. Kenilworth Forest neighborhood - (all of the area of Kenilworth Subdivision behind the Asheville Mall, White Pine Drive and adjacent streets) from RS-8 to RS-4.
57. Tunnel Road (Hildebrand properties) - portion not abutting Beaucatcher Road of PIN No. 9648-08-98-7846 from RM-16 to Office Business; 9658-05-08-0782 from RM-16 to Office Business; and 9658-05-08-1285, except for a 100 foot strip left along Beaucatcher Road) RM-6 the remainder to be Office Business.

58. Brevard Road area (Ingles property) - area shown in light brown on the advertised maps at the intersection of Brevard Road at I-240 across from the Farmer's Market from RM-8 to Regional Business.
59. Deaverview Road property - Map 9628-10 - from RM-16 to Commercial Industrial.
60. Kenilworth Forest - PIN No. 9658-09-06-2425 from RM-16 to RM-8.
61. Stoner Avenue - (property between Stoner Road and the property owned by the Slosman Corporation) - PIN No. 9647-08-89-9932 - from RM-8 to Commercial Industrial.
62. Gertrude Street - PIN No. 9649-11-55-5664 and 5723 from RM-6 to RS-4.
63. Chatham Road property - PIN No. 9649-06-38-1010 from RM-16 to RM-8.
64. Oakley area - parcel west of Broadview - PIN No. 9657-08-88-6104 from RM-8 to RS-8.

This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Cloninger moved to adopt the maps as revised. It was noted that this motion will make the earlier motion on the adoption of the text effective. This motion was seconded by Councilman Worley. The record should reflect that City Council had received a copy of the ordinance and it would not be read.

Upon inquiry of Vice-Mayor Field and Councilman Skalski, City Attorney Oast said that the ordinance is effective as of the date of its adoption.

Vice-Mayor Field voiced concern over an earlier recommendation that she had given to staff in which she felt it was inappropriate to adopt the ordinance without giving the people in the community who are in the process of building a house or developing, some period of time or some way of either complying with the present ordinance or the new ordinance and their being allowed to make that choice. She noted that there are many, many major items changed between the old and new ordinance.

Ms. Cogburn suggested making the effective date 30 or 60 days.

Vice-Mayor Field then moved to amend the motion that Councilman Cloninger made to adopt the UDO and have a 30 day period in which projects that are in the design process or are in the process in some way can either elect to comply with the text of the old ordinance or the text of the new ordinance. This would be accomplished by writing a letter to the Planning staff and asking for one or the other.

City Attorney Oast said that what staff has been doing is that any plan or development proposal that was submitted with a completed application as of 5:00 p.m. today gets considered under the old ordinance.

Vice-Mayor Field recalled being told that the plan needed to have final approval by 5:00 p.m. today - that it could not be in the process. City Attorney Oast responded that that was a misunderstanding. He said that if the City has a proposal that was submitted as of 5:00 p.m. today, then it gets considered under the provisions of the old ordinance - even if the final action on approval is not taken until sometime later this summer.

City Attorney Oast read the effective date section of the text ordinance which states "This ordinance shall take effect and be in force from and after its adoption; provided, that it shall only be effective

upon adoption of zoning classification maps consistent with the regulations herein; further provided, that for those projects for which a complete application for a permit or other approval as required under this ordinance, or any of the provisions of the Code of Ordinances of the City of Asheville which are replaced, repealed or amended by this ordinance, shall have been submitted prior to the effective date of this ordinance, those applications shall be considered and acted upon under the development regulations in effect prior to the effective date of adoption of this ordinance."

Vice-Mayor Field was concerned about someone who has to stop work in the middle because they don't know which ordinance to conform with. She felt Council would only be dealing with five projects but there needs to be some accommodation for these people. Someone who has designed half a project should not have to go back and pay their engineer, architect or designer again to design a new project because of the adoption of the UDO tonight.

Vice-Mayor Field said that when the North Carolina Building Code makes changes, they allow people time to write a letter and say that they're in the process of designing and they choose to design it under the old Code or the new Code.

Ms. Cogburn said that she has only heard this concern from one individual who did not even have a specific project that they could present to staff. The Planning staff have been working with a number of individuals in the development and business community for the past six months in anticipation of this and have not heard this as a concern at all, except from the one individual who does not even have a specific project that the Planning staff is aware of on the table. She explained that staff did talk about this issue informally with Council and suggested the effective date could be postponed but no one other than Vice-Mayor Field was concerned with the issue so staff did not carry it forward. She said the simple solution would be to pick an effective date or 30, 60 or 90 days from now.

Vice-Mayor Field asked if Councilman Cloninger would be willing to amend his motion to at least not make the ordinance effective until the books are printed and people can at least know what it is they are supposed to comply with.

Councilman Cloninger wondered what the ramifications would be in postponing the effective date 30 days.

City Attorney Oast said that what Vice-Mayor Field is requesting is a delay in the effectiveness of this ordinance which would in effect delay the effective date of the entire UDO for 30 days or whatever period Council decides on. In the interim between now and then, the old ordinance would be in effective just like always and then 30 days from now the new ordinance would be in effect.

Vice-Mayor Field then moved to amend Councilman Cloninger's motion to make the effective date of the mapping May 27, 1997, and the effective date of the text June 27, 1997.

Councilman Cloninger said that any design professional has known for weeks that Council was going to pass the UDO on May 27.

Vice-Mayor Field stressed that the people didn't know what the text was until tonight. She said that she withdrew her amendment to Councilman Cloninger's motion and would have no choice but to vote against the UDO.

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Councilman Worley wondered if there was some special language that if someone with a project in process, but who hasn't filed a completed application yet, can have a two week window, or something similar to that.

City Attorney Oast said that the cleanest way to accomplish what he understands is being requested is to delay the effective date of the ordinance. It's a little difficult, from a legal standpoint, to adopt an ordinance that is effective for some projects but not for others. If Council is inclined to allow these projects that are in some phase of design, but with respect to which there has been no application completed or submitted, to be processed under the old regulations, he suggested the only way to do that that he can think of right now, is to delay the effective date of the ordinance.

City Attorney Oast then suggested making the ordinance maps and text effective today, but provide a window of 30 days for projects that are in some phase of the design process to submit completed applications. In other words, that would allow Council to do exactly what they are talking about. If someone submits their application within 30 days then they can proceed under the old ordinance, if they wish. He felt that this is not the cleanest or the easiest way, but it addresses what Vice-Mayor Field's objection is.

Councilman Cloninger agreed to the amend his motion to adopt the ordinance maps and text effective today, but provide a window of 30 days for projects that are in some phase of the design process to submit completed applications. The amendment to the motion was accepted by Councilman Worley and motion carried unanimously.

Mayor Martin said that we have just completed a task that has taken a number of years by successive Councils to bring to fruition. The UDO process has been long and arduous, as it should be because it is very important to everyone.

City Council saw the necessity of bringing this long-term project to a close. As with any process and large project of this nature, we did not please everyone. But everyone should remember that the UDO will be a dynamic document, and will continue to be changed to reflect new conditions and unforeseen circumstances that may occur that Council and staff did not know about prior to tonight's vote.

Mayor Martin thanked the entire City Council for their perseverance during this process. We have heard over 40 hours of public hearings. Two Councilmen, Cloninger and Worley, discussed the UDO and the UDO process at many of the community meetings that were held. It has been on cable TV, advertised extensively and Council members have discussed with the public on an individual basis for many more hours, the relative merits of various parts of the UDO. He felt we should all feel good about the process and the end product.

Mayor Martin thanked staff, in particular the Planning & Development Department, for their continued perseverance and professionalism throughout the process. He thanked other City employees who aided materially in the final adoption of the UDO. He also thanked the Planning & Zoning Commission for their review and input to the process.

Last of all, he thanked the public for their continued input at public hearings and at other meetings, on various aspects of the UDO. This is an accomplishment he thought the entire City can take pride in and he's pleased that it is completed.

See pg 388 for additional UDO comments

V. NEW BUSINESS:

A. REPORT - FOUR YEAR STAGGERED TERMS FOR CITY COUNCIL

City Attorney Oast said that under G.S. 160A-101 (4) the law specifies that City Council may serve terms of office of either two or four years. It further specifies that all of the terms need not be of the same length and all the terms need not expire in the same year. Currently City Council currently serves two year terms and all seats of Council are open at the same election, including the Mayor. In order for Council to change this, it requires the adoption of a resolution of intent and at the same time Council also establishes a public hearing which must be set between 10 and 45 days from the date of the resolution. Notice must be published at least once, not less than 10 days prior to the hearing. After the public hearing at the next regular meeting of Council, the Council may then adopt an ordinance and within 10 days the City Clerk must publish notice that the ordinance had been adopted.

If Council wishes, he will prepare the necessary resolution before Council at the next worksession. It may require Council to waive the rules in order to vote on the resolution. The important thing to note is that the filing deadline for the November elections comes up in early July. He also pointed out that this would not have the effect of lengthening the current terms of any of the current Council members. It will only be effective for terms beginning after the next election.

Vice-Mayor Field said that when this came up before Council she voted against it because it was very important to her that the citizens of Asheville get a chance to say who their leaders are every two years. She agreed that Council would be much more effective if it could be every four years. Therefore, she suggested that the Mayor's term be every two years and that the Council be split. If we go to a four year staggered, that on the next election that the three top vote getters get the four year terms and the next three vote getters get the two year terms. And then with the Mayor being elected every two years, that would mean that the community would have the right to come forward and change the majority on Council every two years. It would also give everyone the opportunity after the year 2000 to have four year terms.

City Attorney Oast said he would investigate whether it is necessary to designate in advance which seats will be four year seats and which seats will be two year seats.

Upon inquiry of Councilman Skalski, City Attorney Oast said that the change can be done by referendum.

It was the consensus of City Council to direct the City Attorney to prepare the necessary resolution for Council consideration at their next worksession.

VI. OTHER BUSINESS:

A. COMMENTS BY LENI SITNICK

Ms. Leni Sitnick asked that Council reconsider a designation in the UDO under the Use Districts for Parks. She suggested a letter "P". She also asked Council to consider a pooper scooper law.

B. CLAIMS

The following claims were received by the City of Asheville during the week of May 2-15, 1997: Charles E. Smith (Sanitation), Clarence D. Willis (Sanitation), Gene Szymanski (Finance) and Angela Carswell (Sanitation).

The following claims were received during the week of May 16-22, 1997: Chene Hartman (Streets), Laura Annarino (Streets) and Yvette Jives (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 11:55 p.m.

Magdalen Bowles
CITY CLERK

MAYOR

Exhibit "A" 5-27-97 changes to UDO maps

UDO Map	Revisions: Council Consensus	PINs	Proposed Change
1	Park Av., Heatherks lots	9638-08-98-7068	CI to RM-8
2	Parkway Forest	see attachment ★	RS-8 to RS-4
3	North end Chunn's Cove	see attachment ★	RM-6 to RS-2
4	Blake Mtn. Estates, buffer prop.	9655-13-14-3658, part	RM-6 to RS-2
5	Cornell St., single lot	9647-20-91-7169	RS-4 to Office
6	87 Riverside Church Rd.	9639-10-26-9864	MHRC overlay
		9639-10-36-0766,-2905	"
		9639-10-37-0380,2320	"
7	Malvern Hills area	see attachment ★	RS-8 to RS-4
8	Falconhurst area	see attachment ★	RM-8 to RS-8
9	Vermont Av., north end of street	see attachment ★	RM-8 to RS-8
10	Vivian Rd./Nantahala St.	9649-09-15-4974	RM-8 to INST
		9649-09-16-0734,-2885,-7196,-7270	"
		9649-09-17-3141	"
11	Grove Park Inn property part	9649-07-79-4703 part	Resort to RS-2
12	Ottari Rd., south side	9740-18-42-7296,-8263,-9189,-9211	RM-8 to RS-8
		9740-19-52-0147,-1100,-1212	"
13	East Asheville Rec., Tunnel Rd.	9658-12-87-6254	RS-4 to CB1
14	1 Logan Av.	9638-12-86-7975	RM-8 to River
15	276 E. Chestnut St.	9649-15-63-1258	RM-8 to CB1
16	I-40 / NC 191	9627-12-97-5330	RM-8 to HB
		9637-05-07-1739	"
17	Trinity Industries	9639-14-44-8846, part	INST to IND
18	Biltmore area	9647-08-89-9932	RM-8 to CI
19	Old Haywood Rd.	9628.17-11-5571, part	RM-8 to HB
20	Westwood / I-240	9638-07-78-2505	not currently zoned to HB
21	Wood Av.	9658-14-32-7900	River to CI
22	Yorkshire St.	9647-12-85-6923	RS-8 to Office
		9647-12-86-5192,-3100	"
23	304 Cisco Rd.	9659-19-52-8006	RS-2 to RS-4
		9659-15-62-1546,-63-1315	"
24	Oteen Church Rd.	see attachment ★	RM-8 to RS-2
25	Iris and Shady Oak Dr.	see attachment ★	RM-8 to RS-8
26	Wedgefield Dr. properties	9626-07-67-9777	Office to CB1
		9626-07-77-0962	"
		9626-07-78-1076,-2157,-3228,-4307	"
27	Beaverdam Rd.	9750-05-07-8252	NB to RS-4
		9750-09-17-8252	"
28	West Chapel/Oakley School Rd.	9657-18-41-6459	RS-8 to IND
29	Hendersonville Rd.	see attachment ★	INST to HB
30	West End/Clingman, Pioneer	9648-05-08-0068, -2121	CI to RM-8
31	Arco Rd.	see attachment	RM-6 to RS-4
		9658-11-77-1168, -3004	RS-8 to RM-6
32	Sand Hill Rd., Crowell prop.	9627-17-12-1184	RS-2 to Industrial
33	Hill St.	9649-17-11-2119, -3138	Office to RM-8
		9649-17-11-5240, part	"
34	Sand Hill Rd.	9617-16-83-0548	OB to CI
		9617-16-83-0849	"
35	I-40/US 19/23	9617-07-69-2067, -58-0377	HB & RM-8 to CI
36	Pond Rd., Trueblood prop.	9627-19-61-3826	RS-2 toCI
37	Leicester Highway	see attachment ★	RM-6 to CB11
38	Jackson Park/Woolsey area	see attachment ★	RM-8 to RM-6 & RS-8
39	Arlington St.	9649-15-62-4667,-5615,-5675,-5752	Office to RS-8
		9649-19-62-4408,-4478,-5428,-5478	"
40	Old County Home Rd.	9629-18-31-5705	RM-6 to CB11
41	Albemarle Rd.&Pl.	see attachment ★	RM-8 to RS-8
42	Blue Ridge Av.	9638-09-05-2827,-2912,-2917,-3937	RM-8 to RS-8
		9638-09-06-0030,-0127,-2023,-2039	"
		9638-09-06-2195,-2291	"
43	Vance Crescent, Brevard Rd., Olney Rd., Rex St., Davenport Rd., Vance Crescent Ext., Sand Hill Rd.	see attachment ★	RM-8 to RS-8
44	Beaverdam Rd.	9740-14-43-7492,-9587	Office to RM-8
		9740-15-53-1108	Office to CB1
45	Arlington St.	9649-15-72-3700	RS-2 to RS-8
46	Sweeten Creek Rd. & I-40	9657-10-25-5042	IND to CI

47	Kenilworth (southern area)	see attachment *	RM-6 to RS-8
48	Riverview Dr., Barias prop.	9638-20-82-7087	RS-2 to RS-4
49	Merrimon Av.	9730-12-85-8726	RS-4 to CB1
UDO Map Revisions, City Council Split Votes			
50	Broad St., south side	9649-14-43-9468,-9558	RM-8 to Office, 5-1
		9649-15-53-0547,-0597,-1415,-1419	"
		9649-15-53-2453,-2457,-2545,-2594	"
51	E. Chestnut St./Furman Av.area	9649-15-63-0073,-2245,-2080,-4263	RM-8 to RM-16, 6 to 1
		9649-15-62-3969,-4800,-4928,-4979	"
		9649-15-62-5758,-5965	"
52	Crescent St. area	see attachment *	RM-8 to RM-16, 4 to 3
53	Merrimon Av., Rhodes property	9649-10-37-2444	RM-8 to RM-16 and CB1, 4-3
54	N. Louisiana Av.	9638-05-19-9941,-9978	RM-6 to Office Business, 4 to 3
		9639-17-10-8679, part	"
		9639-17-10-9171,-9285	"
		9639-17-20-0305	"
55	Hazel Mill Rd., next to cemetary	9639-17-00-9007,-9416	RS-2 to RM-6, consensus (motion made for OB, no 2nd)
56	Kenilworth Forest neighborhood	see attachment *	RS-8 to RS-4, 4-3
57	Tunnel Rd., Hildebran lots	9648-08-98-7846, part	RM-16 to OB, 6 to 1
		9658-05-08-0782	"
		9658-05-08-1285	RM-16 to RM-6, 6 to 1
58	Brevard Rd.area, Ingles property	see attachment *	RM-8 to RB, 4 to 3

* Refers to long list of PIN #'s for each of the larger areas to be rezoned

Tuesday - June 3, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Provisions for Possession & Consumption of Malt Beverages and/or Unfortified Wine at Riverfest 1997 at the RiverLink Bridge

Summary: The consideration of a resolution for the possession and consumption of open containers of malt beverages and/or unfortified wine for Riverfest '97 to be held on the RiverLink Bridge, June 28, 1997.

For the second year, Riverlink, Inc. will co-sponsor with the City of Asheville Riverfest '97 to bring attention to the current condition and activities along the French Broad River. Beginning in 1996, this event has been facilitated by the Parks and Recreation Department. RiverLink, Inc. has requested permission to allow possession and consumption of beer and wine during this event from 4:00 p.m. to 10:30 p.m. Beer and wine sales will end one hour before the time of closing.

The Asheville Parks and Recreation Department staff recommends approval of this request.

Extension of Parking Violations Management Agreement

Summary: Consideration of a proposal to extend the current Parking Violations Management Agreement between Complus Data Innovations, Inc. and the City of Asheville for two years, with options for two more one year extensions.

In April 1992 the City entered into an agreement with Complus Data Innovation, Inc. for parking citation services. The agreement was for a period of three years with two additional automatic one year extensions. Complus provides the City with data automation equipment (handheld ticket writing devices, bar code reader, desktop computer with parking citation management software and modem), communications links with Complus' nationwide citation management system, nationwide research of vehicle owners and addresses and mailing of delinquent citation notices. In exchange for these services, the City reimburses Complus a percentage of the revenue received from citations issued through the Complus system (14.5% for tickets issued to North Carolina registered vehicles and 20% for out of state vehicles). Estimated reimbursement to Complus in Fiscal Year 96-97 will be approximately $33,000 and the proposed Fiscal Year 97-98 budget includes an appropriation of $35,000. Complus' equipment and delinquent citation follow-up services have been instrumental in improving the City's parking citation collection rates and increasing associated revenues.

The proposed extension, under the same terms as currently in effect, is for a period of two years (through April 1999) with automatic options for two more one year periods.

Staff recommends City Council approve the proposed extension and authorize the City Manager to execute the enabling addendum to the current agreement.

Speed Limit Changes

Summary: The consideration of changing speed limits on the following streets: Mt. Vernon Circle, Marietta Street, Frederick Street, Howland Road, Stockbridge Road, Madison Avenue, Lindsey Road and Montford Avenue.

The City Traffic Engineer has performed the necessary traffic analyses associated with the following locations as per the Manual on Uniform Traffic Control Devices and the North Carolina Supplement. We are seeking authorization from the City Council to change these speed limits.

Establish 20 MPH

(1) Mt. Vernon Circle (entirety)
(2) Marietta Street (entirety)
(3) Frederick Street (entirety)
(4) Howland Road (entirety)
(5) Stockbridge Road (entirety)
(6) Madison Avenue (entirety)

Establish 25 MPH

(1) Lindsey Road (entirety)

Establish 30 MPH

(1) Montford Avenue (entirety)

These locations have been reviewed over the past 12 months as per the request of residents and motorists who utilize these roadways. Field surveys and speed studies were conducted and data reviewed based upon the 85th percentile speed, which is the speed at or below which 85 percent of the vehicles are moving. This speed is reviewed in relationship to the median speed and the pace speed range. The pace speed range is the range of speeds at which the largest concentration of motorists drive. These speeds were all reviewed to address the speeding problems in these areas.

1. Montford Avenue:

A speed study was conducted along Montford Avenue per the request of citizens. The posted speed limit along this roadway is 35 MPH. The Speed Study indicates that the 85th percentile speed is 38 MPH and the pace range is 31-40 MPH. The residential nature of this roadway and it's width suggests that the safe operating speed limit should be 30 MPH. The Asheville Police Department concurs with our recommendations. We will continue to monitor this area for additional improvements.

2. Mt. Vernon Circle:

A speed study was conducted along Mt. Vernon Circle per the request of citizens in this area. There is no posted speed limit along Mt. Vernon Circle. The Speed Study indicates that the 85th percentile speed is 23 MPH and the pace range is 16-25 MPH. The residential nature of this roadway and it's width suggests that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendation.

3. Lindsey Road:

A speed study was conducted along Lindsey Road per the request of the Asheville Police Department. There is no posted speed limit along Lindsey Road. The Speed Study indicates that the 85th percentile speed is 28 MPH and the pace range is 21-30 MPH. The residential nature of this roadway and it's width suggests that the safe operating speed limit should be 25 MPH. The Asheville Police Department concurs with our recommendation. We will continue to monitor this road for further improvements.

4. Stockbridge Road:

A Speed Study was conducted along Stockbridge Road per the request of citizens in this area. There is no posted speed limit on this roadway. The Speed Study indicates that the 85th percentile speed is 23 MPH and the pace range is 6-15 MPH. The residential nature of this roadway, it's alignment and width suggest that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendation.

5. Marietta Street:

A Speed Study was conducted along Marietta Street as per the request of citizens in this area. There is no posted speed limit along this roadway. The speed study indicates that the 85th percentile speed limit is 28 MPH and the pace speed range is 21-30 MPH. The residential nature of this roadway and its width suggests that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendations.

6 Frederick Street:

A Speed Study was conducted along Frederick Street per the request of the citizens of this area. There is no posted speed limit on this roadway. The speed study indicates that the 85th percentile speed is 23 MPH and the pace speed range is 16-25 MPH. The residential nature of this roadway and its width suggest that the speed limit be 20 MPH. The Asheville Police Department concurs with our recommendations.

7. Howland Road:

A speed study was conducted along Howland Road per the request of citizens. There is no posted speed limit along this roadway. The Speed Study indicates that the 85th percentile speed is 28 MPH and the pace speed range is 21-30 MPH. The residential nature of this roadway and its width suggests that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendations.

8. Madison Avenue:

A speed study was conducted along Madison Avenue as per the request of citizens in the area. There is a 35 MPH speed limit posted along this roadway. The Speed Study indicates that the 85th percentile speed is 23 MPH and the pace range is 16-25 MPH. The residential nature of this roadway, its alignment, and its width suggests that the safe speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendation.

The Public Works Department recommends the approval of these speed limit changes.

Mr. James Cheeks, Traffic Engineer, explained his traffic analysis regarding Montford Avenue and why staff was requesting the speed limit be reduced from 35 mph to 30 mph, when a petition was received requesting the speed be reduced to 25 mph. Some considerations were the width of Montford, parking on both sides of the street, the number of intersecting streets and the types of vehicles that use Montford. He felt that reducing the speed to 30 mph was the speed limit that would work best for Montford and at 30 mph we can get the maximum amount of police enforcement.

Vice-Mayor Field asked Mr. Cheeks to request NC DOT to place some "reduce speed limit" signs on Patton Avenue where the speed reduces quickly from 50 mph to 20 mph.

At the request of Mayor Martin, Mr. Cheeks explained the nature of some of the 44 accidents over 3-1/2 years on Montford Avenue.

Vice-Mayor Field asked Mr. Cheeks to check on a request she received from the Police Chief in Biltmore Avenue about reducing the speed on his road.

Upon inquiry of Councilman Hay, Mr. Cheeks said that there is now a flashing yellow and flashing red light at the intersection of Cumberland and Chestnut Streets. He will continue to monitor that intersection to see if it will warrant a four-way stop.

Ms. Fairfax Arnold, Montford resident, urged Council to lower the speed limit on Montford Avenue to 25 mph. She cited that there are a lot of children on the street traveling to the store, recreation center and Montford Park. She felt that Montford Avenue is conducive to speed and dangerous to children. She felt that 25 mph is a more appropriate speed for that street, regardless of whether it is hard to enforce or not.

Vice-Mayor Field suggested lowering the speed to 30 mph and then do another traffic study in 6 months to see if it warrants a further reduction to 25 mph.

Budget Amendment re: Delinquent State Novelty Tax

Summary: The Asheville Civic Center owes sales tax on novelties to the State of North Carolina in the amount of $29,733.82 for which funding is not currently available.

Many events at the Asheville Civic Center include the sale of novelties. Sales tax is due to the State of North Carolina on the sale of such novelties. It has been the practice at the Civic Center to collect such sales tax from the novelty vendors. It is, therefore, the responsibility of the Asheville Civic Center to remit such sales tax to the State of North Carolina on a timely basis. For the period June, 1994 through February, 1997, the sales tax from novelties was collected from the vendors but not remitted to the State. The amount of such taxes due for the period is $29,733.82 and is currently due and payable. Sales tax due since February, 1997 has been and is being remitted in a timely manner. The Civic Center is seeking additional funding in order to make the payment to the State of North Carolina for the back sales tax due as such funds are not appropriated in the current year. An appropriation of General Fund Contingency is required to meet the funding request.

Staff recommends the approval of the $ 29,734 funding request by the Asheville Civic Center for the Fiscal Year 1996/97. This appropriation will leave a General Fund Contingency uncommitted balance of $16,919.

Budget Amendment re: Historic Architectural Survey

Summary: The consideration of a budget amendment to update Asheville and Buncombe County's 1978 architectural survey.

Nearly 20 years ago, the City of Asheville and Buncombe County conducted a survey of our historic resources. That inventory included very few buildings and neighborhoods within the City of Asheville while many parts of Buncombe County were under surveyed. The N. C. Dept. of Cultural Resources has granted $10,000 to HRC for a new architectural inventory. The City will match the grant with $10,000 and HRC is requesting an additional $10,000 from Buncombe County.

To better understand our development patterns and our historic areas such as: West Asheville, Kenilworth, Proximity Park, Victoria Place, Norwood Park, Shiloh, South French Broad, West End/Clingman, neighborhoods adjacent to McCormick Field, Beaver Lake, and Beverly Hills should be surveyed. Most of these neighborhoods reflect the lifestyles of the middle and working class citizens of Asheville during the late 19th and early 20th centuries.

In the county, Upper and Lower Hominy, Leicester, Limestone, Fairview, Avery's Creek, Broad River, Weaverville, and Black Mountain deserve documentation beyond the cursory work carried out in the 1978 survey. These areas represent a rural way of life that is quickly disappearing.

It is important that every community and neighborhood is proud of their cultural and architectural heritage. So many of Asheville's African-American neighborhoods were destroyed during the Urban Renewal era of this country. Only a handful of these neighborhoods --- Victoria Place, South French Broad, East End, and Shiloh remain intact and reflect the role blacks played in Asheville's development.

With the coming of the railroad in the 1880s Asheville and Buncombe County boomed. That economic boom encompassed four decades from the 1890s through the 1920s. It was not only the wealthy retirees, summer tourists, or those stricken with tuberculosis who came to Asheville and Buncombe County but also the working man and woman, who came in search of jobs. Our history was written on the working persons brow; their history, neighborhoods, and communities must also be respected and understood.

The survey will take about 10 months to complete. The survey will help with the identification of significant architectural and geographic features, settlement patterns, economic activities, population growth, characteristic architectural and land use features in our urban neighborhoods and rural communities. Detailed maps will be produced to show characteristics such as: age, land use, and architectural or historical significance. Every structure within the survey area will be photographed. Results of the survey will be published in a new edition of Cabins & Castles. Both the City and the County will share in the revenues derived from the sale of the book.

Funds have not been budgeted for this project. Therefore, a budget amendment, in the amount of $30,000, will be required with an appropriation of $10,000 for the City's participation in the cost, and

also to recognize as revenue funds from the N. C. Dept. of Cultural Resources in the amount of $10,000 and Buncombe County in the amount of $10,000.

Staff recommends approval of the budget amendment.

Demolition of 94 Aurora Drive

Summary: The consideration of an ordinance directing that the Director of the Building Safety Department to demolish and remove the structure located at 94 Aurora Drive.

This structure is located in Kenilworth with an address of 94 Aurora Drive. Over the years, the Building Safety Department has received numerous complaints from neighboring property owners. The structure is a two-story conventional house that has been extensively damaged by fire resulting in substantial deterioration and dilapidation. The unfit structure repeatedly and continuously attracts vagrants as illegal occupants. The Code Enforcement Officer's efforts to eliminate this nuisance has been frustrated by the inability to locate the current owner and a lack of knowledge of the whereabouts of the record owner. After requesting assistance from the Legal staff and receiving same in July of 1995, notice to the absentee owner was mailed and a hearing was conducted before the Code Enforcement Officer on August 17, 1995.

Subsequent to the August 17, 1995, hearing , the Code Enforcement Officer was contacted by the owner's niece, Susan Medling Sansosti. Ms. Sansosti informed the Code Enforcement Officer that her Grandmother, Leila C. Medling was deceased and that her father and uncle were the heirs to their mother's estate. Ms. Sansosti further advised Code Enforcement Officer that she had talked with her father and uncle and they were both in agreement that the structure located at 94 Aurora Drive should be demolished. Ms. Sansosti applied for a demolition permit on 4/29/96 and started her search for a contractor. However, Ms. Sansosti stated that neither she nor her father and uncle were financially able to cause the structure to be demolished and removed. Ms. Sansosti stated that she, her father and her uncle had no problem with the City immediately proceeding with the demolition of the structure. John David Medling and Donald Eugene Medling along with their wives, have executed appropriate forms to allow the City to dispense with all further procedures required by law to protect the interest of the property owners. Donald Eugene Medling and John David Medling desire for the City to immediately proceed with the demolition and removal of the structure and to place a lien against the property for the cost of the demolition. The Historic Resource Commission has been contacted and have no interest.

General information:

- Fair market value of house is $26,800.00.
- Value to rebuild the house only is $82,524.00.
- Land value without the house is $18,500.00.
- Estimated cost to demolish is $13,500.00
- The Affordable Housing Agencies were notified.

The Building Safety Director recommends adoption of an ordinance directing the demolition of 94 Aurora Drive.

Demolition of 116 Clingman Avenue

Summary: Consideration of a resolution setting a public hearing on June 24, 1997, to demolish 116 Clingman Avenue.

Demolition of 20 Galax Avenue

Summary: Consideration of a resolution setting a public hearing on June 24, 1997, to demolish 20 Galax Avenue.

Demolition of 72 Clingman

Summary: Consideration of a resolution setting a public hearing on June 24, 1997, to demolish 72 Clingman Avenue.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

JUNKED VEHICLE TEAM PRESENTATION AND ORDINANCE

Ms. Julia Cogburn, Planning & Development Director, introduced members of the Abandoned and Junked Vehicles Process Management Team who presented Council with amendments to the current ordinance which will improve the enforcement process.

A Process Management Team organized and started meeting in October to examine the existing processes regarding enforcement of our ordinances concerning junked and abandoned vehicles. The team was to recommend measures for improving the purpose, effectiveness and efficiency of these processes.

The Team reviewed in detail and flow charted the current process. The team then identified that the current ordinance needed revisions in order to address the following issues:

- Too many Departments involved in the process;
- The time frame for actions was too long;
- Communication with customers could be improved;
- The appeal and towing process needed some revisions.

The Team recommends that the Building Safety Department be removed from the process, and that the Planning & Development Director and Chief of Police shall be responsible for the overall administration and enforcement of the ordinance. The Zoning Division of the Planning & Development Department will be responsible for the inspection and communication of violations with the vehicle or property owner(s). The Police Department will be responsible for administering the removal and disposition of vehicles from either public or private property when required.

Individual team members then gave an overview of the flowchart of the current process, the flowchart of the proposed process and outlined the major changes to the ordinance, those being, the change in the administration of the ordinance, change in the notice provisions and change in the hearing process..

The team recommended that the effective date of implementation of the ordinance be July 1, 1997.

Assistant City Attorney Martha McGlohon responded to questions relating to the sale and disposition of unclaimed vehicles, noting that disposition of the vehicle by the tow truck operator or towing business shall be carried out in accordance with state statutes.

Vice-Mayor Field expressed concern about vehicles being tagged as junked that are being restored or used for parts. Ms. McGlohon said

that the Zoning Enforcement Office will have to make those determinations.

Ms. Cogburn said that in addition to the notice affixed to the windshield, a courtesy notice of violation will be either hand delivered or sent to the owner.

Upon inquiry of Councilman Worley, Ms. McGlohon said that the definition of "Aesthetic junked motor vehicle" and "Junked motor vehicle" come from the state statutes.

Vice-Mayor Field that it was positive step that we do not charge for the towing of the vehicles in that some people may want to get rid of their vehicles but don't know how.

City Manager Westbrook felt that this ordinance will be a model for the state and will meet the expectations of the community.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

RECOMMENDATION FROM THE CIVIC CENTER TASK FORCE COMMITTEE ON THE FUTURE OF THE CIVIC CENTER - HUNTER INTERESTS INC. PROPOSAL AND BUDGET AMENDMENT

Councilman Hay, also Chairman of the Task Force on the Future of the Civic Center, reported that on November 19, 1996, the Task Force on the Future of the Civic Center gave its first report to City Council. Among other things, the Task Force reported that it had found that the community sees the need for the continuation of a multi-purpose civic center, essentially as we have now, although major improvements are necessary and, further, due to limitations in the existing facility, we stand to lose events which could be of economic benefit to the community and could help pay for the operation of the Civic Center. The Task Force recommended that City Council direct the Task Force to proceed on the premise that Asheville needs a multi-purpose civic center which can also generate economic benefits for the community, and that the Task Force be authorized to commission a market analysis which would demonstrate which economic opportunities, if any, are being lost and what would attract and/or hold them.

City Council adopted the recommendations of the Task Force, and the Task Force has proceeded under that authority. The primary focus of the Task Force's efforts during the last several months has been to identify and engage a consulting group which could conduct a market analysis. A national search has been conducted by the Task Force, which began with attendance by two of the Task Force members at a conference conducted by the National Council for Urban Economic Development in Tempe, Arizona, entitled "If You Build It, Will They Come?". The report from those Task Force members, which included information regarding the types of consultants available and the nature of similar efforts in other communities, served as the beginning point for the Task Force's search for an appropriate consultant.

The Task Force reviewed proposals and information from as many as 40 different consulting groups throughout the country, and eventually interviewed four groups. After careful consideration of credentials and past performances, information gathered in interviews, and the specifics of the proposals made by the various groups, the Task Force recommended the engagement of Hunter Interests Inc., of Annapolis, Maryland.

The Task Force members attending the conference in January met Mr. Don Hunter at that time, and added his firm to the list of as a result of that initial contact. Since that time, Hunter Interests Inc. has met with the Task Force twice and submitted the proposal which is before City Council at this time.

The Task Force is looking for a number of things in a consultant. The Task Force believed that it needed a consultant with a national reputation whose report would be credible not only to our community but also to potential lenders and others who would use the report to make future plans. The Task Force also believed that it was essential that the group understand our community, have experience with similar projects, and appreciate the scale and needs of our Civic Center. Finally, it was of importance to the Task Force that it have a good personal relationship with the individuals with whom it would be working. Hunter Interests Inc., and in particular the representatives of the company who met with the Task Force, met each of these criteria.

Hunter Interests Inc. has a long resume of both consulting and development projects. Among those of the most interest to the Task Force were the work the company had done with the Roanoke Convention and Conference Center and the Tallahassee, Florida Civic Center expansion. Those projects were for cities similar in size to Asheville and resulted in creative solutions which were specific to the needs of those communities.

Hunter Interests Inc.'s proposal is broken into two phases, as requested by the Task Force. In the first phase, it will conduct a market overview to understand and identify the markets offering the greatest use of the Civic Center, as well as a summary of the competitive issues which should be taken into consideration. The second phase is a detailed market analysis, including a report and presentation with recommendations and proposed projects.

The Task Force believes that Hunter Interests Inc. represents the best choice for conducting the market analysis authorized by City Council, and recommends that City Council engage it on the terms outlined in the proposal.

Upon inquiry of Mayor Martin, City Manager Westbrook said that the budget amendment, in the amount of $35,000, is for both phases and if phase two is not implemented, the money will not be spent.

Upon inquiry of Councilman Cloninger, Councilman Hay said that the analysis would be completed within four-five months after execution of the agreement.

RESOLUTION NO. 97-82 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CITY OF ASHEVILLE CHARTER TO PROVIDE FOR FOUR-YEAR STAGGERED TERMS FOR THE MAYOR AND COUNCIL MEMBERS AND SETTING A PUBLIC HEARING THEREON

City Attorney Oast said that at the direction of City Council, he prepared two versions of a resolution of intent to adopt an ordinance amending the City's Charter in order to provide for four-year staggered terms for City Council. One resolution provides for four-year terms for those Council members other than the Mayor; the other one provides for a four-year term for all members of Council, including the Mayor. As proposed in the resolutions, the terms of three Council members would expire every two years. Under the first resolution, the Mayor's term would expire every two years so that, in every election, four seats on the Council would be open. The second resolution would stagger the

terms of Council members in the same way, but the Mayor's term would only expire every four years.

Determining which Council Members serve four years and which serve two years depends on who receives the highest vote total in the 1997 election. In the second draft resolution, whether the Mayor's next term is two or four years also depends on the number of votes received.

The statutory authority for amending the City's Charter to change its form of government in this way is contained in G.S. 160A-101. Section (4) of that statute makes specific provisions for four-year staggered terms.

G.S. 160A-102 provides that the changes authorized by G.S. 160A-101 may be made by adopting an ordinance following a public hearing, which hearing must be held between 10 and 45 days after adoption of the Resolution of Intent. The Resolution, if adopted, should also set the date of the public hearing, and both versions contain language to that effect. The ordinance may not be adopted at the public hearing, but may be adopted as early as the next regular meeting after the public hearing. The statute provides, but does not require, that such ordinances may be effective only if approved by a vote of the people, and further provides that a special election may be called for that purpose within 90 days.

Notice of adoption of the ordinance must be published within ten days after its adoption. The only timing requirement contained in the law is that the ordinance must be finally adopted and approved at least 90 days before the first election held thereunder. Election day in 1997 is November 4 and the primary is October 7, which means that final action on the ordinance should probably be taken not later than July 9, 1997. However, the filing period for the 1997 election opens on July 7, and it is recommended that Council take final action on or before that date, to avoid any claim that individuals seeking election did not know the length of the terms when they filed.

With the above-stated time restrictions in mind, Council may adopt a Resolution of Intent at this worksession. Council's rules need to be waived, however, in order to consider and adopt this Resolution at this work session. A public hearing could not occur until after June 13, and the week of June 16 would be an appropriate time for that hearing. Since Council has a work session scheduled for June 17, which is more than 10 days from your June 3 work session, that would be an appropriate and legally acceptable date for the public hearing.

The ordinance may not be adopted at the public hearing, but may be adopted as early as the next regular meeting after the public hearing, which would be Council's formal session on June 24. Notice of adoption of the ordinance must be published within 10 days of its adoption.

He then passed out draft ordinances giving effect to each of the forms described in the resolution.

Upon inquiry of Councilman Hay, City Attorney Oast said that City Council could adopt the resolution of intent today setting a public hearing to consider an ordinance amendment. Following the public hearing Council can make a decision when adopting the ordinance about whether to make it subject to a referendum of the people.

Mayor Martin spoke in support of four year staggered terms and explained that it would accomplish continuity, be less expensive to run for City Council and make the Council more efficient. He also spoke in support of the Mayor's position being a four year term. He felt it would weaken the Mayor's position and further politicize the Mayor's position to keep it two years. He felt four year terms was important for the stability of our government.

Vice-Mayor Field said that she voted against this issue last time it was before City Council because she said that we are a represenative democracy and we give the citizens a right to vote and have a voice every two years. She has also heard from several people to reduce the cost of elections and agreed with the Mayor that it will be less expensive in the election process. She also felt that in the balance of things, if the Council is four years staggered and the Mayor is two years, that means that every two years the community gets the opportunity to vote the majority of Council members off of City Council. However, another balancing factor is the equation is the concern of politicizing the Mayor's race.

Councilman Worley said that he leaned towards going to four year terms, however, he was concerned about the manner in which Council will proceed. He realized Council could put it to a referendum and maybe that's the best way, but he wasn't certain. He wanted to wait to see what kind of public response Council receives and encouraged public response by letters, telephone calls and comments at the public hearing. He asked for guidance from the community on whether Council should go ahead with four year terms effective in this fall election or put it on the ballot.

City Attorney Oast noted that a petition by 5,000 registered voters could put the issue on the ballot. That would probably delay the effective date until 1999.

Councilman Skalski strongly recommended this matter be placed on the ballot and ask for comments from the public. He referenced three national polls that show city and local government have a very low trust factor. He also suggested discussing the possibility of district elections.

Vice-Mayor Field stated that the campaign finance reform organizations have voiced their support for four years terms, staggered or not.

Vice-Mayor Field then moved to waive the rules and take formal action on this item at this time. This motion was seconded by Councilman Sellers and carried unanimously.

The record should reflect that City Council previously received a copy of the resolution and it would not be read.

Councilman Worley moved adoption of the resolution of intent which provides for a four-year term for all members of Council, including the Mayor, with said four-year term for the Mayor beginning in 1997. This motion was seconded by Councilman Cloninger.

At the request of Councilman Skalski, Councilman Worley amended his motion to adopt the resolution of intent setting a public hearing for June 17, 1997, which provides for a four-year staggered term for all members of Council, including the Mayor, with consideration being given at said public hearing to the issue of whether to submit the ordinance

to a referendum. Councilman Cloninger agreed to the amended motion and said motion carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 84

LEASE AGREEMENT FOR DESIGN AND INSTALLATION OF HVAC EQUIPMENT FOR THE CIVIC CENTER

Mr. Lyle Willis, Contract Administration, asked for Council consideration of entering into a lease agreement for the design and installation of HVAC equipment and energy-saving measures for lighting retrofit for the Asheville Civic Center.

Approximately two months ago, City staff became aware that the existing HVAC system for the Asheville Civic Center arena is on the verge of breakdown due to age and wear. Several options were explored, including lease-purchase method vs. an operating lease of new equipment.

First explored was the lease-purchase agreement. This was conducted by request for proposals from design-build firms to furnish the design, specifications, and quality assurance of construction for installation of energy-saving components for lighting and heating/ventilation/air-conditioning aspects of the Civic Center arena; and to finance and install these energy-saving components through a lease-purchase contract for an eight-year duration.

Due to the lack of response to this RFP and the length of time to re-advertise for proposals required by North Carolina General Statutes regarding "contracting," the lease-purchase method was ruled out, and an operating lease agreement was negotiated with Carolina Power & Light to provide the design and installation of a new HVAC system. CP&L also has offered as part of this lease to retrofit the Civic Center's existing lighting to provide a better and more energy-efficient lighting arrangement for the arena, lobby area and parking structure.

The highlights of the lease agreement are provided in the lease agreement proposal letter from CP&L covering scope of work, financing costs, payment schedule and basic terms.

Funding for this project will be obtained through the Civic Center's operating budget.

Staff recommends that the City Manager be authorized to enter into a lease agreement with Carolina Power & Light to lease for the design and installation of HVAC equipment and energy-saving measures for lighting retrofit for the Asheville Civic Center.

Upon inquiry of Councilman Hay about the impact of this lease agreement regarding the detailed analysis to be performed on the future of the Civic Center, Mr. Willis didn't feel that this would be a concern.

Discussion surrounded the other alternatives and reasons why staff felt this was the best approach at this particular time, which included a financial advantage.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

OTHER BUSINESS

Minimum Housing Code Enforcement

City Attorney Oast said that he would be happy to address specific questions regarding the building inspection program with City Council in closed session.

All American City

Mr. Richard Nantelle wished City Council the best of luck in their efforts to obtain the designation of All American City.

Councilman Worley stated that whether or not Asheville receives the award, Asheville is the All American City.

Council members thanked Ms. Robin Westbrook and the Chamber of Commerce for their efforts in trying to achieve this designation.

CLOSED SESSION

At 5:03 p.m., Councilman Worley moved to go into closed session for the following reasons: (1) to establish or to instruct the City Council's staff or negotiating agents concerning the position to be taken by or on behalf of the City Council in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease. Statutory authority is G.S. 143-318.11 (a) (5); and (2) to consult with an attorney employed or retained by the City Council in order to preserve the attorney-client privilege between the attorney and the City Council - Statutory authority is G.S. 143-318.11 (a) (3). This motion was seconded by Councilman Sellers and carried unanimously.

At 6:30 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:30 p.m.

Magdalen Bowlerson
CITY CLERK

MAYOR

Tuesday - June 10, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Sellers gave the invocation.

I. PROCLAMATIONS:

A. ASHEVILLE - ALL AMERICA CITY

Mayor Martin proudly announced the City of Asheville being awarded the 1997 All America City designation from the National Civic League. Mayor Martin recognized Ms. Robin Westbrook, Chamber of Commerce representatives, the Hillcrest Highsteppin' Majorette and Drum Corps and several others from the 56 delegation which traveled to Kansas City, Missouri, to compete for the award.

II. CONSENT:

Ms. Jacqueline Larsen asked that Item F. be removed from the Resolutions & Motions Consent Agenda for discussion..

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 27, 1997, AND THE WORKSESSION HELD ON JUNE 3, 1997

B. RESOLUTION NO. 97-83 - RESOLUTION MAKING PROVISIONS FOR POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT RIVERFEST 1997 AT THE RIVERLINK BRIDGE

Summary: The consideration of a resolution for the possession and consumption of open containers of malt beverages and/or unfortified wine for Riverfest '97 to be held on the RiverLink Bridge, June 28, 1997.

For the second year, Riverlink, Inc. will co-sponsor with the City of Asheville Riverfest '97 to bring attention to the current condition and activities along the French Broad River. Beginning in 1996, this event has been facilitated by the Parks and Recreation Department. RiverLink, Inc. has requested permission to allow possession and consumption of beer and wine during this event from 4:00 p.m. to 10:30 p.m. Beer and wine sales will end one hour before the time of closing.

The Asheville Parks and Recreation Department staff recommends approval of this request.

RESOLUTION BOOK NO. 24 - PAGE 85

C. RESOLUTION NO. 97-84 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 24, 1997, TO CONSIDER THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 116 CLINGMAN AVENUE

RESOLUTION BOOK NO. 24 - PAGE 86

D. **RESOLUTION NO. 97-85 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 24, 1997, TO CONSIDER THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 20 GALAX AVENUE**

RESOLUTION BOOK NO. 24 - PAGE 87

E. **RESOLUTION NO. 97-86 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 24, 1997, TO CONSIDER THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 72 CLINGMAN AVENUE**

RESOLUTION BOOK NO. 24 - PAGE 88

F. **RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 5 AT THE CORNER OF COURTLAND AND MONTFORD AVENUE IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT TO ROBERT EIDUS AND JEANETTE SYPHLAX**

This item was removed from the agenda for discussion.

G. **RESOLUTION NO. 97-87 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN EXTENSION TO AN AGREEMENT WITH COMPLUS DATA INNOVATIONS INC.**

Summary: Consideration of a proposal to extend the current Parking Violations Management Agreement between Complus Data Innovations, Inc. and the City of Asheville for two years, with options for two more one year extensions.

In April 1992 the City entered into an agreement with Complus Data Innovation, Inc. for parking citation services. The agreement was for a period of three years with two additional automatic one year extensions. Complus provides the City with data automation equipment (handheld ticket writing devices, bar code reader, desktop computer with parking citation management software and modem), communications links with Complus' nationwide citation management system, nationwide research of vehicle owners and addresses and mailing of delinquent citation notices. In exchange for these services, the City reimburses Complus a percentage of the revenue received from citations issued through the Complus system (14.5% for tickets issued to North Carolina registered vehicles and 20% for out of state vehicles). Estimated reimbursement to Complus in Fiscal Year 96-97 will be approximately $33,000 and the proposed Fiscal Year 97-98 budget includes an appropriation of $35,000. Complus' equipment and delinquent citation follow-up services have been instrumental in improving the City's parking citation collection rates and increasing associated revenues.

The proposed extension, under the same terms as currently in effect, is for a period of two years (through April 1999) with automatic options for two more one year periods.

RESOLUTION BOOK NO. 24 - PAGE 89

H. **RESOLUTION NO. 97-88 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH HUNTER INTERESTS INC. FOR A MARKET ANALYSIS REGARDING THE FUTURE OF THE CIVIC CENTER**

Summary: Hunter Interests Inc.'s proposal is broken into two phases, as requested by the Civic Center Task Force. In the first phase, it will conduct a market overview to understand and identify the

markets offering the greatest use of the Civic Center, as well as a summary of the competitive issues which should be taken into consideration. The second phase is a detailed market analysis, including a report and presentation with recommendations and proposed projects.

The Task Force believes that Hunter Interests Inc. represents the best choice for conducting the market analysis authorized by City Council, and recommends that City Council engage it on the terms outlined in the proposal.

RESOLUTION BOOK NO. 24 - PAGE 90

I. **RESOLUTION NO. 97-89 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH CAROLINA POWER & LIGHT COMPANY FOR DESIGN AND INSTALLATION OF HVAC EQUIPMENT AND ENERGY-SAVING MEASURES FOR LIGHTING RETROFIT FOR THE ASHEVILLE CIVIC CENTER**

Summary: Approximately two months ago, City staff became aware that the existing HVAC system for the Asheville Civic Center arena is on the verge of breakdown due to age and wear. Several options were explored, including lease-purchase method vs. an operating lease of new equipment.

First explored was the lease-purchase agreement. This was conducted by request for proposals from design-build firms to furnish the design, specifications, and quality assurance of construction for installation of energy-saving components for lighting and heating/ventilation/air-conditioning aspects of the Civic Center arena; and to finance and install these energy-saving components through a lease-purchase contract for an eight-year duration.

Due to the lack of response to this RFP and the length of time to re-advertise for proposals required by North Carolina General Statutes regarding "contracting," the lease-purchase method was ruled out, and an operating lease agreement was negotiated with Carolina Power & Light to provide the design and installation of a new HVAC system. CP&L also has offered as part of this lease to retrofit the Civic Center's existing lighting to provide a better and more energy-efficient lighting arrangement for the arena, lobby area and parking structure.

The highlights of the lease agreement are provided in the lease agreement proposal letter from CP&L covering scope of work, financing costs, payment schedule and basic terms.

Funding for this project will be obtained through the Civic Center's operating budget.

RESOLUTION BOOK NO. 24 - PAGE 91

J. **MOTION SETTING A PUBLIC HEARING ON JUNE 24, 1997, TO CONSIDER THE FOLLOWING MODIFICATION REQUESTS FOR WALDEN RIDGE PROFESSIONAL PARK TO BE LOCATED OFF HENDERSONVILLE ROAD: REDUCTION IN THE STREET RIGHT-OF-WAY FROM 50 FEET TO 40 FEET AND REDUCTION IN THE CUL-DE-SAC RIGHT-OF-WAY RADIUS FROM 50 FEET TO 45 FEET**

Mayor Martin said that members of Council have been previously furnished with copies of the resolutions on the Resolutions & Motions Consent Agenda and they will not be read.

Vice-Mayor Field moved for the adoption of the Resolutions & Motions Consent Agenda. This motion was seconded by Councilman Skalski and carried unanimously.

ORDINANCES:

A. ORDINANCE NO. 2371 - ORDINANCE AMENDING THE SPEED LIMITS ON MT. VERNON CIRCLE, MARIETTA STREET, FREDERICK STREET, HOWLAND ROAD, STOCKBRIDGE ROAD AND MADISON AVENUE TO 20 MPH; LINDSEY ROAD TO 25 MPH AND MONTFORD AVENUE TO 30 MPH

Summary: The consideration of changing speed limits on the following streets: Mt. Vernon Circle, Marietta Street, Frederick Street, Howland Road, Stockbridge Road, Madison Avenue, Lindsey Road and Montford Avenue.

The City Traffic Engineer has performed the necessary traffic analyses associated with the following locations as per the Manual on Uniform Traffic Control Devices and the North Carolina Supplement. We are seeking authorization from the City Council to change these speed limits.

Establish 20 MPH

(1) Mt. Vernon Circle (entirety)
(2) Marietta Street (entirety)
(3) Frederick Street (entirety)
(4) Howland Road (entirety)
(5) Stockbridge Road (entirety)
(6) Madison Avenue (entirety)

Establish 25 MPH

(1) Lindsey Road (entirety)

Establish 30 MPH

(1) Montford Avenue (entirety)

These locations have been reviewed over the past 12 months as per the request of residents and motorists who utilize these roadways. Field surveys and speed studies were conducted and data reviewed based upon the 85th percentile speed, which is the speed at or below which 85 percent of the vehicles are moving. This speed is reviewed in relationship to the median speed and the pace speed range. The pace speed range is the range of speeds at which the largest concentration of motorists drive. These speeds were all reviewed to address the speeding problems in these areas.

1. Montford Avenue:

A speed study was conducted along Montford Avenue per the request of citizens. The posted speed limit along this roadway is 35 MPH. The Speed Study indicates that the 85th percentile speed is 38 MPH and the pace range is 31-40 MPH. The residential nature of this roadway and it's width suggests that the safe operating speed limit should be 30 MPH. The Asheville Police Department concurs with our recommendations. We will continue to monitor this area for additional improvements.

2. Mt. Vernon Circle:

A speed study was conducted along Mt. Vernon Circle per the request of citizens in this area. There is no posted speed limit along Mt. Vernon Circle. The Speed Study indicates that the 85th percentile speed is 23 MPH and the pace range is 16-25 MPH. The residential nature of this roadway and it's width suggests that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendation.

3. Lindsey Road:

A speed study was conducted along Lindsey Road per the request of the Asheville Police Department. There is no posted speed limit along Lindsey Road. The Speed Study indicates that the 85th percentile speed is 28 MPH and the pace range is 21-30 MPH. The residential nature of this roadway and it's width suggests that the safe operating speed limit should be 25 MPH. The Asheville Police Department concurs with our recommendation. We will continue to monitor this road for further improvements.

4. Stockbridge Road:

A Speed Study was conducted along Stockbridge Road per the request of citizens in this area. There is no posted speed limit on this roadway. The Speed Study indicates that the 85th percentile speed is 23 MPH and the pace range is 6-15 MPH. The residential nature of this roadway, it's alignment and width suggest that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendation.

5. Marietta Street:

A Speed Study was conducted along Marietta Street as per the request of citizens in this area. There is no posted speed limit along this roadway. The speed study indicates that the 85th percentile speed limit is 28 MPH and the pace speed range is 21-30 MPH. The residential nature of this roadway and its width suggests that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendations.

6 Frederick Street:

A Speed Study was conducted along Frederick Street per the request of the citizens of this area. There is no posted speed limit on this roadway. The speed study indicates that the 85th percentile speed is 23 MPH and the pace speed range is 16-25 MPH. The residential nature of this roadway and its width suggest that the speed limit be 20 MPH. The Asheville Police Department concurs with our recommendations.

7. Howland Road:

A speed study was conducted along Howland Road per the request of citizens. There is no posted speed limit along this roadway. The Speed Study indicates that the 85th percentile speed is 28 MPH and the pace speed range is 21-30 MPH. The residential nature of this roadway and its width suggests that the safe operating speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendations.

8. Madison Avenue:

A speed study was conducted along Madison Avenue as per the request of citizens in the area. There is a 35 MPH speed limit posted along this roadway. The Speed Study indicates that the 85th percentile speed is 23 MPH and the pace range is 16-25 MPH. The residential nature of this roadway, its alignment, and its width suggests that the safe speed limit should be 20 MPH. The Asheville Police Department concurs with our recommendation.

ORDINANCE BOOK NO. 16 - PAGE 205

B. ORDINANCE NO. 2372 - ORDINANCE TO DEMOLISH 94 AURORA DRIVE

Summary: The consideration of an ordinance directing that the Director of the Building Safety Department to demolish and remove the structure located at 94 Aurora Drive.

This structure is located in Kenilworth with an address of 94 Aurora Drive. Over the years, the Building Safety Department has received numerous complaints from neighboring property owners. The structure is a two-story conventional house that has been extensively damaged by fire resulting in substantial deterioration and dilapidation. The unfit structure repeatedly and continuously attracts vagrants as illegal occupants. The Code Enforcement Officer's efforts to eliminate this nuisance has been frustrated by the inability to locate the current owner and a lack of knowledge of the whereabouts of the record owner. After requesting assistance from the Legal staff and receiving same in July of 1995, notice to the absentee owner was mailed and a hearing was conducted before the Code Enforcement Officer on August 17, 1995.

Subsequent to the August 17, 1995, hearing , the Code Enforcement Officer was contacted by the owner's niece, Susan Medling Sansosti. Ms. Sansosti informed the Code Enforcement Officer that her Grandmother, Leila C. Medling was deceased and that her father and uncle were the heirs to their mother's estate. Ms. Sansosti further advised Code Enforcement Officer that she had talked with her father and uncle and they were both in agreement that the structure located at 94 Aurora Drive should be demolished. Ms. Sansosti applied for a demolition permit on 4/29/96 and started her search for a contractor. However, Ms. Sansosti stated that neither she nor her father and uncle were financially able to cause the structure to be demolished and removed. Ms. Sansosti stated that she, her father and her uncle had no problem with the City immediately proceeding with the demolition of the structure. John David Medling and Donald Eugene Medling along with their wives, have executed appropriate forms to allow the City to dispense with all further procedures required by law to protect the interest of the property owners. Donald Eugene Medling and John David Medling desire for the City to immediately proceed with the demolition and removal of the structure and to place a lien against the property for the cost of the demolition. The Historic Resource Commission has been contacted and have no interest.

General information:

- Fair market value of house is $26,800.00.
- Value to rebuild the house only is $82,524.00.
- Land value without the house is $18,500.00.
- Estimated cost to demolish is $13,500.00
- The Affordable Housing Agencies were notified.

The Building Safety Director recommends adoption of an ordinance directing the demolition of 94 Aurora Drive.

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ORDINANCE BOOK NO. 16 - PAGE 206

C. ORDINANCE NO. 2373 - ORDINANCE TO AMEND ARTICLE 11 OF CHAPTER 10 TO IMPROVE THE ENFORCEMENT PROCESS CONCERNING JUNKED AND ABANDONED VEHICLES

Summary: A Process Management Team organized and started meeting in October to examine the existing processes regarding enforcement of our ordinances concerning junked and abandoned vehicles. The team was to recommend measures for improving the purpose, effectiveness and efficiency of these processes.

The Team recommends that the Building Safety Department be removed from the process, and that the Planning & Development Director and Chief of Police shall be responsible for the overall administration and enforcement of the ordinance. The Zoning Division of the Planning & Development Department will be responsible for the inspection and communication of violations with the vehicle or property owner(s). The Police Department will be responsible for administering the removal and disposition of vehicles from either public or private property when required.

Major changes to the ordinance, those being, the change in the administration of the ordinance, change in the notice provisions and change in the hearing process.

ORDINANCE BOOK NO. 16 - PAGE 208

D. ORDINANCE NO. 2374 - BUDGET AMENDMENT TO PAY THE NOVELTY SALES TAX TO THE STATE OF NORTH CAROLINA

Summary: The Asheville Civic Center owes sales tax on novelties to the State of North Carolina in the amount of $29,733.82 for which funding is not currently available.

Many events at the Asheville Civic Center include the sale of novelties. Sales tax is due to the State of North Carolina on the sale of such novelties. It has been the practice at the Civic Center to collect such sales tax from the novelty vendors. It is, therefore, the responsibility of the Asheville Civic Center to remit such sales tax to the State of North Carolina on a timely basis. For the period June, 1994 through February, 1997, the sales tax from novelties was collected from the vendors but not remitted to the State. The amount of such taxes due for the period is $29,733.82 and is currently due and payable. Sales tax due since February, 1997 has been and is being remitted in a timely manner. The Civic Center is seeking additional funding in order to make the payment to the State of North Carolina for the back sales tax due as such funds are not appropriated in the current year. An appropriation of General Fund Contingency is required to meet the funding request.

Staff recommends the approval of the $ 29,734 funding request by the Asheville Civic Center for the Fiscal Year 1996/97. This appropriation will leave a General Fund Contingency uncommitted balance of $16,919.

ORDINANCE BOOK NO. 16 - PAGE 218

E. ORDINANCE NO. 2375 - BUDGET AMENDMENT TO UPDATE ASHEVILLE AND BUNCOMBE COUNTY'S 1978 ARCHITECTURAL SURVEY

Summary: The consideration of a budget amendment to update Asheville and Buncombe County's 1978 architectural survey.

Nearly 20 years ago, the City of Asheville and Buncombe County conducted a survey of our historic resources. That inventory included very few buildings and neighborhoods within the City of Asheville while many parts of Buncombe County were under surveyed. The N. C. Dept. of Cultural Resources has granted $10,000 to HRC for a new architectural inventory. The City will match the grant with $10,000 and HRC is requesting an additional $10,000 from Buncombe County.

To better understand our development patterns and our historic areas such as: West Asheville, Kenilworth, Proximity Park, Victoria Place, Norwood Park, Shiloh, South French Broad, West End/Clingman, neighborhoods adjacent to McCormick Field, Beaver Lake, and Beverly Hills should be surveyed. Most of these neighborhoods reflect the lifestyles of the middle and working class citizens of Asheville during the late 19th and early 20th centuries.

In the county, Upper and Lower Hominy, Leicester, Limestone, Fairview, Avery's Creek, Broad River, Weaverville, and Black Mountain deserve documentation beyond the cursory work carried out in the 1978 survey. These areas represent a rural way of life that is quickly disappearing.

It is important that every community and neighborhood is proud of their cultural and architectural heritage. So many of Asheville's African-American neighborhoods were destroyed during the Urban Renewal era of this country. Only a handful of these neighborhoods --- Victoria Place, South French Broad, East End, and Shiloh remain intact and reflect the role blacks played in Asheville's development.

With the coming of the railroad in the 1880s Asheville and Buncombe County boomed. That economic boom encompassed four decades from the 1890s through the 1920s. It was not only the wealthy retirees, summer tourists, or those stricken with tuberculosis who came to Asheville and Buncombe County but also the working man and woman, who came in search of jobs. Our history was written on the working persons brow; their history, neighborhoods, and communities must also be respected and understood.

The survey will take about 10 months to complete. The survey will help with the identification of significant architectural and geographic features, settlement patterns, economic activities, population growth, characteristic architectural and land use features in our urban neighborhoods and rural communities. Detailed maps will be produced to show characteristics such as: age, land use, and architectural or historical significance. Every structure within the survey area will be photographed. Results of the survey will be published in a new edition of Cabins & Castles. Both the City and the County will share in the revenues derived from the sale of the book.

Funds have not been budgeted for this project. Therefore, a budget amendment, in the amount of $30,000, will be required with an appropriation of $10,000 for the City's participation in the cost, and also to recognize as revenue funds from the N. C. Dept. of Cultural Resources in the amount of $10,000 and Buncombe County in the amount of $10,000.

F. **ORDINANCE NO. 2376 - BUDGET AMENDMENT FOR A MARKET ANALYSIS REGARDING THE FUTURE OF THE CIVIC CENTER**

Summary: This budget amendment, in the amount of $35,000, is for a market analysis regarding the future of the Civic Center.

ORDINANCE BOOK NO. 16 - PAGE 222

Mayor Martin said that members of Council have been previously furnished with copies of the ordinances on the Ordinance Consent Agenda and they will not be read.

Councilman Worley moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, the Ordinance Consent Agenda was adopted on its first reading.

ITEM REMOVED FROM CONSENT AGENDA FOR DISCUSSION

RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 5 AT THE CORNER OF COURTLAND AND MONTFORD AVENUE IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT TO ROBERT EIDUS AND JEANETTE SYPRZAK

Summary: On April 22, 1997, the City Council directed the City Clerk to advertise for upset bids on Disposal Parcel 5. The advertisement ran in the Asheville Citizen-Times on April 25, 1997, as provided in N. C. Gen. Stat. sec. 160A-269. An upset bid was received and the sale was readvertised on May 9, 1997, and May 23, 1997, each time in response to an upset bid. No upset bid was received in response to the advertisement on May 23,1997. Therefore, the offer to purchase from Robert Eidus and Jeanette Syprzak in the amount of $53,000.00 was not upset and the sale to Robert Eidus and Jeanette Syprzak should be approved.

Approval of the resolution will authorize the sale of the property to Robert Eidus and Jeanette Syprzak for the amount of $53,000.00.

Ms. Jacqueline Larsen, 7 Rosewood Avenue, said that Mr. Robert Eidus misrepresented himself and felt that Council should not award the bid to him. She is still interested in that parcel and felt it was in the City's best interest for the property to be bid again. She asked Council to delay this matter until she can discuss this further with the City Attorney and Mr. Vess, Coordinator of Field Services.

City Attorney Oast said that he has talked with both Mr. Vess and Ms. Larsen. The discussion centered on whether Ms. Larsen could take the place of one of the bidders in the entity that has submitted the bid. It was his opinion that the Council had to award the bid as submitted, if at all. The statute under which Council is proceeding does provide that Council may award the bid to the highest bidder but Council may reject all bids if it wishes. If Council wishes to review this item further, Council can delay action until the matter is resolved.

Vice-Mayor Field moved to continue this matter until July 8, 1997, until City staff can meet with Ms. Larsen to see if the matter can be resolved. This motion was seconded by Councilman Sellers and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING ON THE FISCAL YEAR 1997-98 ANNUAL OPERATING BUDGET

Mayor Martin opened the public hearing at 5:20 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Audit/Budget Director Bob Wurst said that each year the City Council conducts a public hearing to receive public input on budget issues before the Annual Operating Budget is adopted.

The Fiscal 1997/98 Annual Operating Budget was presented to City Council on May 15, 1997. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Budget along with a notice of this Public Hearing was published on May 31 and June 1, 1997. The adoption of the Budget Ordinance is scheduled on June 24, 1997 at the City Council meeting.

The Fiscal Year 1997/98 Annual Operating Budget is balanced with no increase in the ad valorem tax rate of $0.57 per $100 of assessed value and all essential City services are maintained or improved.

Since the Budget was presented to City Council on May 15, 1997, several changes have been requested by City Council. These changes will be incorporated into the Budget before adoption on June 24, 1997. The changes to date are summarized as follows:

- Rental for the West Asheville Resource Center is included.
- Funding to increase City Council compensation is included.
- Outside Agency funding has been revised in accordance with the Outside Agency Committee recommendations.
- Certain fees and charges will be revised in accordance with the Fees and Charges Committee recommendations.
- The General Capital Reserve Fund Budget has been revised to include grant funding for Stephens-Lee Center renovations.
- Funding totaling $100,000 of City funds and $40,000 of community funds is included in the Capital Improvement Plan for Haw Creek Park development is included.

A copy of the Budget is available for public inspection in the City Clerk's office. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption with the only exception being the ad valorem tax rate, which cannot be changed once adopted.

Upon inquiry of Councilman Worley, Mr. Wurst explained the aspect of the increases in Council compensation. He said that City Council will receive a 5% increase in accordance with the City's regular Pay Plan effective July 1. This will an ongoing increase every year. Also, staff's recommendation which is based on a survey of 11 North Carolina cities, is that there will be a change in Council salaries to be effective with the new City Council after taking office in December. Those changes are:

	Current	Average in State	Recommended
Mayor	$9,000	$11,033	$11,000
Car Allowance	$150/month		$250/month
Vice-Mayor	$7,000	$7,565	$9,000
Car Allowance	$50/month		$150/month
Council	$6,000	$7,565	$7,500
Car Allowance	$50/month		$150/month

Vice-Mayor Field did a brief survey over two years and noted that City Council members receive an average of 300 invitations a year. Each invitation averaged out to approximately $10 and sometimes they have to choose whether they can afford to go to those functions.

Councilman Cloninger felt it was a good idea to have the increase in effect for the new Council.

Councilman Hay felt the raise for new Council might be an incentive and thought it was important to do it at this time, before the filing period starts next month, so people will know what to expect.

Mr. Ron Holland, employee of the Western Office of the N.C. Div. of Archives & History in Asheville and President of the WNC Historical Association, stated that the Historical Association is the holder of the lease to the Smith-McDowell House on the campus of A-B Tech. He said that the Smith-McDowell House is one of the oldest landmarks, if not the oldest landmark, within the City limits. He said that over the last 15-20 years the State of N.C. has spent over $300,000 for on-going preservation and restoration of the Smith-McDowell House, noting that historic preservation is a constant battle. He felt that anything the City could contribute to their efforts in preserving the Smith-McDowell House would look good in the eyes of the State and in other granting agencies when they go to them to ask for funds. Those agencies will see that the City is supporting them. Therefore, he asked Council to reconsider their request for $12,000.

Upon inquiry of Vice-Mayor Field, Mr. Holland said that this is a one-time request, however, he could not say that in the future they would not need to come back to request additional funds.

Ms. Ruth Camblos urged Council to reconsider granting the Smith-McDowell House $12,000 during this bicentennial year. She noted that they have not asked the City for funds since 1974 and since the House is owned, opened and maintained by the public, the City of Asheville should really consider helping with this restoration expense.

Councilman Worley, member of the Outside Agency Committee, explained that the there was some sentiment on the Committee to recommend some funding for the Smith-McDowell House, but the majority of the Committee did not concur in that recommendation.

Upon inquiry of Councilman Hay, Ms. Camblos said the Smith-McDowell House is owned by A-B Tech but the Historical Association has a lease with the provision that the Historical Association will be responsible for the up-keep of the house.

When Mayor Martin asked if the State has been contributing any funds, Ms. Camblos said that the Association gets diminishing funds from Buncombe County and they have not asked for any funds from the State.

Vice-Mayor Field was very impressed with what the Association has done with the Smith-McDowell House. She felt there was some concern that there are many organizations, museums, etc. that come to the City regularly for funds which some are funded through the Arts Alliance or other organizations.

Upon inquiry of Vice-Mayor Field, City Manager Westbrook said that if Council wished to fund this request, the money would have to be an additional appropriation from fund balance, which is just over $900,000.

Councilman Hay said that he appreciated historic buildings, but all the requests which were funded essentially complement activities that the City is already doing in some way. He was concerned that if the City opens the door, it might be a signal to the community that the City is funding activities now that we have not funded in the past.

Councilman Cloninger agreed that the Smith-McDowell House is worthy and deserving of the funds, as are many other museums and other non-profits in the community, but it's just a matter of not being able to afford to fund all of them.

Vice-Mayor Field suggested, and Council concurred, to instruct staff to meet with the Smith-McDowell representatives to see if they can suggest any other avenues available for funding. Mayor Martin asked that staff be prepared to report back to the Council on June 24, 1997.

Mayor Martin closed the public hearing at 5:37 p.m.

Mayor Martin said that City Council will consider the comments made at this public hearing and consider adoption on June 24, 1997.

B. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE REGARDING GOVERNMENTAL SIGNS AND SIGNS LOCATED IN THE RIGHT-OF-WAY

ORDINANCE NO. 2377 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING GOVERNMENTAL SIGNS AND SIGNS LOCATED IN THE RIGHT-OF-WAY

Mayor Martin opened the public hearing at 5:38 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning Director, said that the proposed wording amendment clarifies the exemption regarding governmental signs and provides for a limited exception for the placement of marquee signage in the right-of-way.

The Asheville Planning and Zoning Commission is recommending approval of an amendment to the Unified Development Ordinance regarding governmental signs and signs located in the right-of-way. A brief explanation of the reason for each amendment is provided below.

1) Wording amendment concerning governmental signs - This wording amendment basically clarifies that all governmental signs are exempt from regulation which is the way Sec. 30-9-3.C.2. has been interpreted since its adoption. Staff recently had it called to our attention that the sentence structure of the provision could be interpreted in different ways.

2) Wording amendment concerning signs in the right-of-way - This provision is added to facilitate the ability of Pack Place to

utilize marquee signage allowed under our sign regulations for theaters, auditoriums, fairgrounds, etc. in multiple tenant developments. In working with the Pack Place Board and staff on this matter, we have found that the fact that the right-of-way in front of the Pack Place building comes all the way to the front door, prohibits them being able to use marquee signage available to other museums, theaters, auditoriums, etc. This wording amendment allows a very limited ability for marquee signage to be permitted in the right-of-way.

The proposed ordinance amendment has been recommended for approval by the Asheville Planning & Zoning Commission with a 7-0 vote. The staff of the Planning & Development Department recommends approval of the amendment.

Councilman Cloninger supported this amendment and hoped that the City will set a good example by trying to comply with the sign ordinance wherever possible.

Councilman Hay, liaison to the Pack Place Board, said that they have been working hard with the City to get this marquee signage.

Mayor Martin closed the public hearing at 5:42 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2377. This motion was seconded by Councilman Hay.

On a roll call vote of 7-0, Ordinance No. 2377 was adopted on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 224

C. PUBLIC HEARING RELATIVE TO AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE REGARDING TREES

ORDINANCE NO. 2378 - ORDINANCE AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE REGARDING TREES

Mayor Martin opened the public hearing at 5:42 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mark Combs, Director of Public Works, said that the Tree and Greenway Commission has drafted changes to the current Code of Ordinances and unanimously requests adoption of the changes.

A subcommittee of the Tree and Greenway commission comprising members Henry Mitchell and Dennis Wilson, Council member Chuck Cloninger and support staff, drafted amendments to Chapter 20 (Trees) of the Code of Ordinances and request the formal adoption of the amendments. Major elements of the changes are as follows:

- *(20-1) **Purpose and Intent:*** Simplified and added "... to regulate the planting of new trees...encourage the protection of existing trees and shrubbery...to regulate the preservation, replacement and indiscriminate removal of trees..."

- *(20-3)* ***Tree Commission:*** New section establishing organization and membership of the Tree Commission

- *(20-4)* ***Definitions:*** Expanded to include terms (incomplete list) *caliper, diseased tree, historic tree, maintenance, regulated tree, replacement, unsafe tree.*

- *(20-5)* ***Administration:*** Responsibilities for key staff defined.

- *(20-6)* ***Permits and Review Required:*** Permit required for any work on trees located on city-owned property to include "...the removal and replacement of regulated and historic trees."

- **(ARTICLE II)** ***CITY PROPERTY:*** Regulates and requires permit for removal, destruction, pruning of trees or shrubbery; regulates construction work around trees/shrubbery; requires planting plan (with 6 succinct requirements); responsibility of owners to trim trees, etc. if projecting onto city property.

- **(ARTICLE III)** ***PRIVATE PROPERTY:*** Controls removal of *regulated* or *historic* trees on private property with appeals process; City "...may cause or order to be removed any tree...which is unsafe"; City may spray or treat infected or infested trees; notification required.

- **(ARTICLE IV)** ***Inspection, Enforcement and Appeal:*** Authorization to "...inspect areas subject to the provisions of this chapter."; Enforcement authority with appeal to "...appeals board from among the membership of the Tree Commission" (subsequent appeal to Superior Court); civil penalty of $100.00 established for each day with provision for appeals board to "...recommend that the amount of the civil penalty be modified as part of a negotiated settlement with the City."

In brief, the proposed amendments clearly define the authority and requirements of tree and shrubbery management on public lands, and regulate designated *regulated* and *historic* trees on private property (both the property owner and City Council must approve designation of such trees). It also clearly establishes the organizational make-up of the Commission and identifies the Commission as the appeals board for decisions rendered by staff.

In conjunction with the proposed changes, staff has developed an inspection report and permit system.

The draft as submitted represents a significant improvement to the current anachronistic code, and is consistent with other progressive municipalities with similar needs. Staff recommends the adoption of amendments to Chapter 20 (Trees) of the Code of Ordinances, and as amended by City Council.

Councilman Cloninger commended the volunteer efforts of Mr. Mitchell and Mr. Wilson in working to amend this very important ordinance.

Mayor Martin closed the public hearing at 5:44 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Cloninger moved for the adoption of Ordinance No. 2378. This motion was seconded by Vice-Mayor Field.

On a roll call vote of 7-0, Ordinance No. 2378 passed on its first and final reading.

ORDINANCE BOOK NO. 16 - PAGE 225

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. ORDINANCE AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO PROHIBIT DOGS IN RIVERSIDE CEMETERY

ORDINANCE AMENDING CHAPTER 3 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO INCLUDE RIVERSIDE CEMETERY IN THE LIST OF AREAS WHICH PROHIBIT ANIMALS

Mr. Irby Brinson, Parks & Recreation Director, said that in April the Parks and Recreation Advisory Board recommended changing the City's animal control ordinance due to increasing problems in Riverside Cemetery and they also reaffirmed their position at their May meeting.

This recommendation is to change the City ordinance to make it illegal for dogs in Riverside Cemetery based upon the following reasons: the general safety of the staff and visitors (there have been a number of documented attacks and associated problems with dogs in the Cemetery); waste that is left behind by the animals (especially a problem for the crews for the maintenance of the Cemetery and those visiting the gravesites); it has been in some cases disruptive to funeral services; the urine stains on the monuments and headstones can't be removed with major expense and in some cases can't be removed at all; the walking areas for the dogs are not appropriate (not like other public parks) because many of the graves in Riverside are unmarked in the grass areas; there are dogs that are running free without supervision by the owners; no other major city in North Carolina allows animals in their cemeteries; the current ordinance is not being followed which states that animals should be on a leash or with voice control and the owners must clean up after the dogs; there is a possible loss of revenue from grave sales; and Riverside (or any other cemetery) is a place of reverence where families can visit their loved ones and gravesites, not in fear whether perceived or real, of being attacked or free from concerns about the damages to their gravesites and also to the waste left behind. In summary, the Parks & Recreation Department is very much aware of and respects the opinions of those dog owners currently using Riverside Cemetery. We feel there should be open spaces for owners to walk their dogs and to jog with their dogs, but that place is not Riverside Cemetery. This issue is also a problem in other park areas that will need to be addressed in the future. They are receiving constant complaints from patrons in other park areas about the number of dogs. However, they are willing to work with a compromise and find a location other than Riverside Cemetery to accommodate those individuals. Therefore, they respectfully request Section 5-11 to read as follows:

> "It shall be unlawful for an individual to allow, whether on a leash, running free, or under voice control, any animal on the grounds of Riverside Cemetery, whether in a car or on foot. This restriction should not apply to guide dogs in the possession of site impaired or hearing impaired persons."

In addition, we are recommending that "Riverside Cemetery" be added to the City Code of Ordinance 3-27, Subsection E. It should read:

"It shall be unlawful for any person owning or having possession, charge, custody or control of an animal, wild animal or livestock, to take the animal, wild animal or livestock into picnic areas, pond areas, Riverside Cemetery, and the children's play areas . . . ."

Upon inquiry of Councilman Hay about other city-owned cemeteries in the State, Mr. Brinson said that Winston-Salem prohibits animals in their cemeteries; Hickory - no dogs are allowed in their cemeteries; Lexington - no dogs can run free in the City in general and it also specifically states the city's cemetery; Charlotte - no dogs are allowed; Durham - unlawful for individuals to allow dogs in the city's cemetery; and Greensboro has the same type of ordinance.

Councilman Sellers said that after talking with many property owners, he would support staff to ban dogs from Riverside Cemetery.

Vice-Mayor Field felt this was an issue she could see both sides of. The majority of people who are sending Council letters are from women who are walking their dogs and feel unsafe walking their dogs in Montford Park or some of the other parks. She supposed that the Cemetery is more thoroughly patrolled than some of the other parks and she has a great empathy for that particular issue. She has tried to come up with some type of compromise that might work - possibly trying to get both sides of this issue together with some staff and see if they can come to some kind of compromise. She has received letters from people complaining that dogs urinating on monuments cause permanent stains, but what do you do about stray dogs or birds that fly over. She asked if there was anyway that some kind of compromise could come about given that the City doesn't have enough staff to patrol every park all the time and make them totally safe.

Councilman Cloninger agreed with trying to reach a compromise.

Vice-Mayor Field suggested a permit that the owner has to sign. In bold type it could read that they have to have their animal on a leash and that they must clean up after that animal. If they don't do that then they lose their permit and they can't come back in. She wasn't sure, however, how difficult that would be to monitor and enforce. Mr. Brinson said that a major concern would be enforcement. The Parks & Recreation Department has 4-5 people at peak season in Riverside and 2 people during the off-season. To monitor that would be very difficult.

Mayor Martin felt that if there was signage specifying what the rules were, perhaps people would be more inclined to accept those rules.

Mr. Brinson didn't think the problem was with those that would obey the rules. He felt the problems they are dealing with are those that no matter what changes are made, they will still have the enforcement problems associated with that. The issue they are dealing with is the volume of dogs coming into the Cemetery. The Riverside Cemetery Manager counted 35 dogs in one day before 4:30 p.m. - that doesn't even take into account the number of dogs in the evening. He said that he would be willing to try to come up with a compromise if Council wishes.

Mayor Martin suggested staff work with some of the community and try to come up with some compromise with the understanding that if it doesn't work, then Council will have to take more sterner measures.

The following individuals spoke in support of allowing dogs in Riverside Cemetery, perhaps under certain restrictions. Some reasons to allow dogs are, but not limited to, dog walkers help keep the crime element out of the Cemetery; they help with the maintenance by picking up wind-blown flowers, etc.; women need to be able to walk their dogs in the Cemetery for protection; the Cemetery is an ideal place for people to walk and exercise because of the 87 acres, foot paths and no kids or sports activities taking place; the Cemetery is nearby to downtown; the Cemetery is a traffic-free place; other parks are not developed; Montford Park does not have any trails; dog walkers are great park watchers; dogs feel liberated and happy in Riverside Cemetery; and responsible dog owners would hate to lose the privilege of walking their dogs in Riverside Cemetery due to the inappropriate activities of a few:

Mr. Casey Carmichael
A responsible dog owner
Ms. Angie Scotchie
A responsible dog owner
Ms. Kathryn Cartledge, Montford resident and dog groomer
Mr. Andy Scotchie
Ms. Denise Mills & Tom Troszak (presented letter)

Mr. Lane Reid, customer of Riverside Cemetery, urged Council not to allow dogs in Riverside Cemetery. He noted that his children have been knocked over by dogs while visiting at the Cemetery.

Mr. Samuel Camp, Parks & Recreation Advisory Board member, stated that he had a problem with people who want to walk their dog in the Cemetery. He felt the Cemetery was sacred ground and the City has a guaranteed right and obligation to take care of that property.

Ms. Susan Roderick, Quality Forward employee, who works in a lot of the parks and suggested more park patrol. Quality Forward also has the problem of dog owners not picking up after the dogs at Grove Park and at the Rose Garden. She supported keeping the dogs away from the gravesites in that area. She felt that Montford is a wonderful place to walk.

Vice-Mayor Field moved to continue this matter until July 8, 1997, in order to allow staff time to organize at least one meeting between the parties that are involved to see if they can come back to Council with some kind of consensus. This motion was seconded by Councilman Cloninger.

Councilman Worley felt it was a good idea to see if a compromise could be worked out. He encouraged people who have been active in this problem, from both sides of the issue, to call in and volunteer to work with that group. He felt this problem points out the need to have more greenspaces and more areas where people can walk. He felt there are some opportunities, in the Montford area in particular, to achieve that. He would like to see the City work in that direction.

Councilman Skalski spoke in support of a compromise.

The motion made by Vice-Mayor Field and seconded by Councilman Hay carried on a 6-1 vote, with Councilman Sellers voting "no".

B. RESOLUTION NO. 97-90 - RESOLUTION INVOKING ADDITIONAL TIME TO REVIEW THE RATE SUBMISSION OF BRENMOR CABLE PARTNERS, L.P., D/B/A INTERMEDIA, AND ISSUANCE OF A TOLLING ORDER

Ms. Patsy Meldrum, Assistant City Attorney, said that this resolution will notify InterMedia that the City of Asheville intends to review the rate increases for the rebuild of the cable television system.

By Resolution No. 93-152 the City Council of the City of Asheville authorized the City Manager to notify TCI Cablevision of Asheville, predecessor in interest to Brenmor Cable Partners, L.P., that the City of Asheville had become certified by the Federal Communications Commission as of October 6, 1993, to regulate Basic Service Rates and Charges, that the City of Asheville had adopted the requisite rule regarding rate regulation, and that the City of Asheville intended to enforce the new Federal Communication Commission Customer Service Standards as contained in 47 C.F.R. sec. 76.309.

On October 13, 1993, the City Manager notified TCI Cablevision of Asheville by certified mail, return receipt requested, which letter was received by TCI Cablevision of Asheville on October 14, 1993, that the City of Asheville was then authorized to regulate the rates and charges of TCI Cablevision of Asheville for the basic service tier and all equipment, installation and other services used for the basic service tier and that the City of Asheville had adopted the requisite rule regarding rate regulation and filed its certification form with the Federal Communications Commission, with the certification becoming effective on October 6, 1993.

The City of Asheville has continued to regulate rates and charges of TCI Cablevision of Asheville and its successor in interest, Brenmor Cable Partners, L.P., from and after October 6, 1993.

On May 19, 1997, the City of Asheville received from InterMedia an FCC Form 1235 entitled "Abbreviated Cost of Service Filing for Cable Network Upgrades". The cover letter included with the form indicates that InterMedia proposes to increase its subscriber rates for the basic service tier by $1.00 per month and its subscriber rates for the cable programming service tier by $3.00 per month. Federal law authorizes the City of Asheville to review the rates proposed for the basic service tier and to file complaints with the Federal Communications Commission on behalf of complaining subscribers regarding the rates proposed for the cable programming service tier.

The City of Asheville needs additional time to review the FCC Form 1235 and accompanying data filed by InterMedia and, further, needs additional time to request clarification from InterMedia regarding the FCC Form 1235 and accompanying data. This resolution would provide the order required by Federal law to notify InterMedia of the City's intent to review the proposed rates.

The City Attorney's Office recommends adoption of this resolution.

It was noted by Councilman Worley that even though Council may take this action, it won't stop InterMedia from implementing the rate increase. Ms. Meldrum said that the cable company has two choices whenever the City serves them with this notice that we are going to review the rates. One is they can go ahead and implement the rates and then if our review of them determines that the rates are higher than authorized under Federal law, then they would have to refund or rebate to subscribers any amount that should be refunded. Their other choice is that they can wait until we have finished our review to implement those rates. She doesn't know what their position will be, but guessed that they would choose the first position.

Ms. Meldrum also noted that staff does recommend using our consultant, Rice Williams Associates, to assist us in the review of this type of rate increase because it's different from the normal annual inflationary rate increase that is requested. They are sending us a proposal on that and staff may be back to Council shortly for a request to approve an amendment to their agreement and funding for that.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Sellers moved for the adoption of Resolution No. 97-90. This motion was seconded by Councilman Cloninger and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 92

C. RESOLUTION NO. 97-91 - RESOLUTION ENDORSING THE PROPOSAL BY THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL TO BECOME A DEFERRAL AGENCY FOR EMPLOYMENT DISCRIMINATION COMPLAINTS

City Attorney Oast said that this resolution doesn't endorse any specific legislation, but does endorse the proposal by the Asheville-Buncombe Community Relations Council ("CRC") to designation as an EEOC deferral agency. He reminded Council that Mr. Robert Smith, Executive Director of the CRC, was before City Council on May 20, 1997, basically to request Council support. He has been investigating what is necessary for this to take place. He said we are somewhat behind the curve, as far as getting things in for this legislative session, but Mr. Smith thinks that we may be able to prevail upon our legislative delegation to introduce it at next year's short session. A year, or about that amount of time, is about the amount of time that would be necessary for staff to get everything in place that we need to have in a package to go forward with this legislation, which would include a proposed ordinance, an anti-discrimination ordinance here in Asheville and in Buncombe County, and also for Mr. Smith and the CRC to have some information (such as a timetable for the implementation of this idea, where the sources of funding would come from, etc.) for the City Council. Our research has shown that there are several other local governments in North Carolina that do this - Orange County, Durham County and New Hanover County, being three that he could think of, and there may be others. This is a process that is contemplated within Title VII. Essentially the CRC would become what's called a "706 Agency", which means that they would act as the deferral agency and take initial complaints regarding matters of employment discrimination. He said that he would be happy to work with Mr. Smith, at Council's direction, to develop the package.

Mr. Smith responded to a question Councilman Worley raised on May 20 regarding if a person can take an action to federal court. Mr. Oast noted that, other than a delay to allow for initial consideration by the local agency, there is no legal impediment to bringing actions in federal court. Mr. Smith also noted that there is a lot of support for this request and urged Council to endorse their efforts.

Councilman Hay felt it was important to give our endorsement to this proposal so that the CRC can tell Buncombe County and others that the City is in support of this.

Upon inquiry of Vice-Mayor Field, City Manager Westbrook said that Buncombe County sent a letter to the CRC asking them to poll the top 10 businesses in the County to find out whether they supported this or not. The County hasn't received any information back on that and therefore

they were not going to do anything further until they received that information. Mr. Westbrook noted that there is no City staff recommendation on this issue because Mr. Smith asked to bring the matter before City Council for their consideration.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Hay moved for the adoption of Resolution No. 97-91. This motion was seconded by Councilman Skalski and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 94

D. RESOLUTION NO. 97-92 - RESOLUTION CONFIRMING APPOINTMENT TO THE CITY BUSINESS AND DEVELOPMENT COMMISSION

Mayor Martin said that Ordinance No. 2309 established the City Business and Development Commission. Said ordinance authorized various agencies to appoint members to the Commission.

Mr. Ed Metz, the RiverLink representative, will not be able to continue to serve on the Commission, and RiverLink has requested that Mr. T. Douglas Wilson be appointed to replace Mr. Metz as the RiverLink representative.

Mr. Wilson will serve the unexpired term of Mr. Metz, said term to expire on October 1, 1997, or until his successor is appointed.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Field moved for the adoption of Resolution No. 97-92. This motion was seconded by Councilman Sellers and carried unanimously.

RESOLUTION BOOK NO. 24 - PAGE 95

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

On May 7, 1991, City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission ("Commission") relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Commission on June 4, 1997:

Dreamland Improvements at 91 South Tunnel Road

Mr. Mike Matteson, Urban Planner, said that this group development involves the construction of a 115,000 square foot Lowe's store at the corner of S. Tunnel Rd. and Swannanoa River Rd. (the former dreamland flea market site).

The existing Lowe's store on Tunnel Road will be converted to other uses upon the completion of the new structure. The development will involve the relocation of Haw Creek which runs through the property. The developers are working with FEMA on this relocation and on a revision to the FEMA flood maps.

A revised landscape plan will need to be submitted to staff which shows the relocation of proposed trees within the MSD sewer easement (MSD does not allow trees to be planted within their easements).

Staff has received no public comment regarding this group development.

At their June 4, 1997, meeting the Commission voted to recommend approval of the group development with five (5) conditions: (1) Receipt of letters of approval for water and sewer availability and adequate water pressure for fire protection; (2) Compliance with the City's floodplain regulations and any other FEMA requirements; (3) Compliance with building separation requirements of the Department of Insurance; (4) Compliance with MSD requirement that trees be located outside of sewer easement; and (5) Recommendation to Public Works Department that they require that the existing median in Swannanoa River Road be extended towards the northernmost curb cut on the site.

Council accepted the report of the Commission with the above condition, thereby approving the project by taking no action.

Asheville Towne Square Mall to be located on Patton Avenue

Mr. Carl Ownbey, Urban Planner, said that the proposed development is for a commercial mall located on 32 acres of land off Smoky Park Highway in West Asheville.

On March 3, 1997, the Planning Department received the site plan for the proposed commercial mall. The proposed project contains an 115,000 square foot anchor store and four additional commercial stores. The site plan was presented to the Technical Review Committee on March 10, 1997 for their comments. Since there were significant comments and concerns from TRC, the site plan review was delayed until all the comments and concerns could be addressed.

On May 12, 1997, the site plan was presented again to TRC for their review and comments.

On June 4, 1997, the Commission reviewed the site plan and opened the meeting for public comment. The one concern raised by the neighborhood was whether there would be access to the mall from Old Haywood Road.

The Commission voted unanimously to approve of the project with the following two conditions: 1) letter outlining fire protection coverage and 2) receipt of final approval of bridge construction from Norfolk-Southern Railway.

The Planning Staff and the Commission recommend the approval of the Asheville Towne Square Mall with the two conditions outlined above.

Council accepted the report of the Commission with the above condition, thereby approving the project by taking no action.

Volvo 1997 Plant Expansion at 2169 Hendersonville Road

Ms. Erin McLoughlin, Urban Planner, said that Volvo Construction Equipment has prepared a master plan for future plant improvements.

Volvo Construction Equipment has submitted plans for future plant expansion. The total site is 62 acres and is zoned HI (heavy industrial). Volvo plans for minor expansion include: a 22,500 sq. ft.

receiving building, a 7,200 sq. ft. office, a 17,900 sq. ft bead blast building, a 21,600 sq. ft. paint building, a 2,880 wash building, and a test track for their vehicles. They have met all city standards, including zoning, landscaping and parking.

Staff has received no comments in opposition to this group development.

The City Planning & Development staff recommends approval of the group development with one condition: (1) Receipt of letters of approval for water and sewer availability.

At their June 4, 1997, meeting, the Commission voted unanimously to recommend approval of the group development.

Council accepted the report of the Commission with the above condition, thereby approving the project by taking no action.

B. CANCELED MEETING

Due to the upcoming holiday and the Council's agenda being light, Councilman Cloninger moved to cancel City Council's July 1, 1997, worksession. This motion was seconded by Vice-Mayor Field and carried unanimously.

C. UDO COMMENTS

Councilman Skalski said that when he voted on the UDO on May 27, 1997, he passed out the attached Exhibit "A" as the reasons why he voted against the text and most of the issues regarding the mapping.

D. CLAIMS

The following claims were received by the City of Asheville during the week of May 23-June 4, 1997: Dion Eskew (Streets), Joe Dover (Water), Carol Smith (Streets), David L. Smith (Water), Tommy Lawrence (Streets) and Terry Fox (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

E. CLOSED SESSION

At 7:03 p.m., Councilman Worley moved to go into closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by the Council. The statutory authorization is G.S. 143-318.11 (a) (4). This motion was seconded by Councilman Sellers and carried unanimously.

At 7:33 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:33 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

May 27, 1997

Exhibit "A"
to June 10, 1997 minutes

At a time when citizens are being asked to participate in their government, they are being left out. Here are the *proposals* presented over past five years:

NEIGHBORHOOD PROPOSALS
(PRESENTED OVER PAST FIVE YEARS)

CITIZEN PARTICIPATION REQUESTED IN UDO

1. Legally defined land use in "2010 Plan" (Comprehensive Plan) with separate, lengthy, public hearings for changes.
2. Neighborhood/business planning districts for localized citizen empowerment in planning.
3. City-wide structure to have district elected representation on the Planning & Zoning (P&Z) Commission.
4. Eliminate the Board of Adjustments.
5. Generous Buffer Zones to encourage flexible mixing of different uses, and, noise and lighting impact statements.
6. Elliminate speculative grading and buffer zones.
7. Impact statements (benefits/costs) for all new projects to include water, sewer, transportation and environmental.
8. One stop permitting process for the individual/developer/contractor.
9. Coordination between transportation, Metropolitan Sewer District and the UDO for ongoing comprehensive plan.
10. Property owners within 2000 feet of a planning/zoning issue recieve 30 day notice.

*. Thresholds for group development by P & Z and City Council to remain at current levels of 8 or more residential units and 35,000 sq. ft. or more for commercial, 25,000 sq. ft. office/institutional, thereby providing elected officials' accountability for most larger projects

(*April, 1997, Addendum.)

UDO PROPOSALS

CITIZEN PARTICIPATION REDUCED IN UDO

1. "2010 Plan" lousely defined & may be changed, piecemeal, with any single, zoning change.
2. No empowerment process for neighborhood/business cooperation in planning Continues an adversarial process.
3. P & Z Commission left as is, with 5 City appointees, and 2 County appointees voting on city issues.
4. Board of Adjustments left as is.
5. Buffering increased, but not enough for different use mixing, and no noise/lighting impact statements.
6. Speculative grading allowed in all non-residential districts and all buffer zones.
7. No legal impact statements are required. Continues a reactive rather than a proactive policy.
8. One stop permitting process is being implimented.
9. No provisions for coordinating transportation, sewer and the UDO for an onging comprehensive plan.
10. Property owners within 400 feet of a planning/zoning issue receive 10 day notice.

*. Thresholds for site review by P & Z and City Council increased to 50 or more residential units and 100,000 sq. ft. or more for commercial/office/institutional, thereby eliminating elected officials'accountability for most larger projects.

Respectfully submitted by _____

Councilman Jim Skalski

Tuesday - June 17, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Bids regarding Asphalt for Street Division

Summary: Pursuant to N. C. Gen. Stat. sec. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were invited to furnish the City's estimated annual requirement of asphalt materials to be purchased as needed for force account re-surfacing and street repair. One (1) bid was received as follows: APAC-Carolina Inc. - $26.00 per ton.

Since only one bid was received, a survey was conducted to identify other governmental agencies cost for asphalt. By comparison, the price bid to the City of Asheville appears to be consistent with current markets. This bid has been reviewed with Mark Combs and his concurrence received in this recommendation.

Subject to Council's approval, it is recommended the City enter into a contract with Asheville Division, APAC-Carolina, Inc., Asheville, North Carolina, for the purchase, on an as needed basis only, approximately 16,550 tons of assorted asphalt materials for a grand total of $430,300.00. The contract to become effective from the date of approval through May 30, 1998 with no guarantee of minimum purchase quantity.

Bids regarding Video Vehicle Tracking & Detection System for Traffic Engineering

Summary: Pursuant to N. C. Gen. Stat. sec. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were invited to furnish a video vehicle tracking and detection system including on-site training and technical support during installation. One (1) bid was received as follows: Southeastern Safety Supplies, Inc. (Columbia, S.C.) in the amount of $35,480.

This piece of equipment will enable the Traffic Engineering Division of the Public Works Department to optimize the existing street system operations and traffic controls in an effort to provide a more efficient flow of traffic. The overall project will include video detection/tracking, loop detection, microwave detection and microloop detection. This system will be compatible with the four Traconex Closed Loop Traffic Signal Systems already located in Asheville.

In addition to evaluating the proposed equipment to determine compliance with bid specifications, an analysis of the sole bidder's price was conducted. From the analysis it was determined that the price bid the City reflects a discount of $1880.00 off the manufacturer's list price and when compared to other municipalities' cost for comparable equipment, our price is considered to be competitive, fair and reasonable.

This bid has been reviewed with James Cheeks, Traffic Engineer, and Mark Combs, Public Works Director, and their concurrence received in this recommendation.

Funds for the entire purchase are to be from the Public Works Department, Traffic Engineering Division appropriations, Account Code 20-430-15-425-00-5741.

Subject to Council's approval, it is recommended that this bid be awarded to the sole bidder, Southeastern Safety Supplies, Inc., Columbia, S. C., in the amount of $35,480 for the purchase of a 'Peek Traffic Inc.' Model VT-900A-2 video vehicle tracking and detection system complete with cameras, interface panels, cables, mounting hardware and 2 days of on-site training and field support.

Bids regarding Brevard Road Annexation Area Phase 3 Sanitary Sewer System Improvements - Contract 1

Summary: The City Council approved 3.2 million dollars for sewer improvements. This project is known as Brevard Road Area Annexation Sanitary Sewer Improvements, Phase III - Contract One. These funds were to be used for priority sewer improvements.

The City Engineering Department and William Lapsley & Associates has developed construction plans for the Brevard Road Area Annexation Sanitary Sewer Improvements, Phase III - Contract One. The engineer's estimate for this project is in the amount of $162,875.

The project was advertised for one month. On Thursday, June 12, 1997, at 2:00 p.m., the Engineering Department received three bids for the project. A tabulation of bids received is as follows:

Steppe Construction Inc.	$141,723.50
Hobson Construction Co.	$145,149.00
Wheeler Construction Co.	$163,509.00

The construction time for this project is identified as 120 calendar days in the contract documents.

Staff recommends that City Council accept a resolution awarding the bid for Brevard Road Area Annexation Sanitary Sewer Improvements, Phase III - Contract One to the responsible low bidder, Steppe Construction Company in the amount of $141,723.50, and authorize the City Manager to execute all necessary agreements and contracts.

Assistant City Manager Doug Spell responded to several questions from Councilman Skalski related to the budget for this project.

Right-of-Way known as Orchard Road off Azalea Drive is not part of the Adopted Street Plan for the City

Summary: A right-of-way off Azalea Drive, as shown in plat book #24, page 53, is not part of an adopted street plan in accordance with N. C. Gen. Stat. sec. 136-66.2. According to N. C. Gen. Stat. sec. 136-96, a right-of-way not utilized within 15 years of dedication can be abandoned through a recording of a Declaration of Withdrawal.

To proceed with this process, Gary and Gail Hammond of 35 Azalea Drive have requested that the City of Asheville verify if the specific right-of-way is or is not part of the City's adopted street plan. The statute requires the City to adopt a resolution stating the right-of-way to be abandoned is or is not part of a proposed street plan. The unused

alley right-of-way off of Azalea Drive, named Orchard Road, is not part of any such plan and is not a City maintained right-of-way; therefore, the City has determined that all necessary requirements of the statute will have been met by adopting the resolution.

The Public Works Department staff finds that the right-of-way known as Orchard Road, from the intersection with the Southwest corner of PIN# 9668-09-16-7043 and Southeast corner of PIN # 9668-09-16-8082, in its entirety, as shown in Plat book 24, Page 53 is not part of an adopted street plan and recommends the adoption of this resolution.

Agreement with the N. C. Dept. of Transportation for Stream Restoration at Weaver Park

Summary: The consideration of entering into a municipal agreement with the N. C. Dept. of Transportation for a stream restoration project located in Weaver Park.

The Parks and Recreation Department, the North Carolina Department of Transportation, and the Department of Environment, Health, and Natural Resources have been working on a stream restoration project for Reed Creek located at Weaver Park. This stream restoration project has evolved from DOT's requirement to mitigate environmental impact concerns to Gashes Creek as part of the widening of US 74. This project will include repairing the stream bed at Reed Creek, stream bank stabilization, landscaping, bridge replacement, and walking trail construction. This municipal agreement will allow DOT to meet the requirements placed upon them by the Department of Health, Environment, and Natural Resources and will allow them to proceed with the widening of US 74.

The Parks and Recreation Department and the Legal Division requests approval for the City Manager to enter into a municipal agreement with the N. C. Dept. of Transportation.

Conservation Easement with the Dept. of Environment, Health & Natural Resources for Stream Restoration at Weaver Park

Summary: The consideration of entering into a conservation easement with the Department of Environment, Health and Natural Resources for a stream restoration project located in Weaver Park.

The Parks and Recreation Department, the N. C. Dept. of Transportation, and the Department of Environment, Health, and Natural Resources have been working on a stream restoration project for Reed Creek located at Weaver Park. This stream restoration project has evolved from DOT's requirement to mitigate environmental impact concerns to Gashes Creek as part of the widening of US 74. This project will include repairing the stream bed at Reed Creek, stream bank stabilization, landscaping, bridge replacement, and walking trail construction. This conservation easement is required in order to allow for the above work to occur and to ensure that the stream restoration project meets the requirements established by the North Carolina Department of Environment, Health and Natural Resources.

The Parks and Recreation Department and the Legal Division requests approval for the City Manager to enter into a conservation easement with the Department of Environment, Health and Natural Resources.

Conveyance of Ballfield Lights to Eliada Homes

Summary: Several months ago, the Parks and Recreation Department replaced the ballfield lights at Livingston Street Ballfield. The department was approached by Eliada Home regarding the possibility of conveying the used lights to their facility. Under the North Carolina General Statute, Section 160A-279, the City can convey by private sale any real or personal property belonging to the City to any public or private entity which carries out a public purpose. Eliada Home is a non-profit, private entity; therefore, it is possible to convey the lights to them. In exchange, the Parks and Recreation Department will request use of Eliada Home Ballfield for two evenings per week from mid April through late October for use in the adult softball program.

The Parks and Recreation Department recommends approval of the resolution and agreement to convey ballfields lights between the City of Asheville and Eliada Home, Inc.

Budget Amendment regarding Summertime Kids Grant

Summary The consideration of appropriating $1,000 received from the Community Foundation of Western North Carolina for the Summertime Kids 1997 Program.

The Summer Teen Program is designed to provide recreation activities for teens ages 13-16 for eight weeks during the summer. The program is located in seven locations throughout the city in community centers, parks, and low income neighborhoods. The Teen Program will offer bowling, swimming and pool parties, hiking, skating, tennis, golf, fitness, dances, games, arts and crafts, sports and tournaments, field trips, and special events. Grant funds will be used to implement the enrichment adventure activities of rock climbing, horseback riding, and rollerblading.

The Parks and Recreation Department recommends the City of Asheville to accept the grant funds on behalf of the Parks and Recreation Department into the Summertime Kids 1997 budget for adventure activities in the Summer Teen Program.

Clean Water Management Trust Fund Grant

Summary: The Clean Water Management Trust Fund was established by the N.C. General Assembly to provide money to help finance projects that specifically address water pollution problems as well as funding to build a network of riparian buffers and greenways for environmental, educational, and recreational benefits. Currently, $39 million has been allocated in this trust fund for the period ending July 1, 1997. The City of Asheville is interested in applying for a grant to partially fund the greenway master plan and land acquisition along the French Broad and Swannanoa Rivers. The total funding requested for this project has not officially been determined; however, due to the total money available, it is estimated that this grant may be in excess of $1 million.

The Parks and Recreation Department recommends the City Manager be authorized to apply for or enter into an agreement for funding through the Clean Water Management Trust Fund.

Fire District No. 3 Amendment

Summary: The consideration of adjusting the boundaries of Fire District No. 3 (Biltmore) to accommodate renovation/rehabilitation of existing buildings within that fire district.

State law provides for (and in some cases requires) the establishment of "fire districts"--defined areas where construction materials and occupancy types are limited to prevent major fires. Asheville has three such districts. Fire District No. 3 encompasses the old warehouse district in an area roughly bounded by Hendersonville Road, Thompson Street, Decatur Street and the Norfolk Southern right-of-way.

Over the past three years, major renovation and rehabilitation of buildings in Fire District No. 3 have been undertaken to a point where no significant fire protection purpose is served by leaving those structures in Fire District No. 3. This ordinance redefines the boundaries of Fire District No. 3, so that the rehabilitated/renovated buildings are no longer included in that district.

The boundary proposed is generally defined by Sweeten Creek, Thompson Street, Decatur Street and the Norfolk Southern right-of-way, with provision for exclusion of 38 Garfield Street (which is undergoing renovation at this time) from the revised Fire District No. 3.

The Fire Chief recommends adoption of the ordinance that would amend the description of Fire District No. 3 in the Asheville Fire Prevention Code.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

PUBLIC HEARING TO CONSIDER AMENDMENT CITY OF ASHEVILLE CHARTER AND RELATED LAWS TO PROVIDE FOR FOUR-YEAR STAGGERED TERMS FOR THE MAYOR AND MEMBERS OF THE CITY COUNCIL

Mayor Martin recognized City Attorney Oast who said that a Resolution of Intent was adopted on June 3, 1997, and the notice of public hearing on this matter was published in the *Asheville Citizen-Times* on June 6, 1997. He then delivered the staff report on this matter.

Consistent with Council's direction given at the June 3, 1997, worksession, as expressed in the Resolution of Intent adopted that day, a proposed Ordinance has been drafted providing for four-year staggered terms for the Mayor and Councilmembers. Pursuant to G.S. sec. 160A-102, this proposed ordinance is submitted for public consideration and comment at this public hearing.

N. C. Gen. Stat. sec. 160A-102 requires that an ordinance changing the form of government for a city must be finally adopted and approved at least 90 days prior to the first election for which it is effective. By law, final adoption of the ordinance cannot occur at this public hearing, but must wait at least until the next regular meeting, and must occur not later than 60 days after the public hearing. The City primary for 1997 is scheduled for October 7. Accordingly, in order to be effective for that election, the ordinance would have to be finally adopted and approved before July 9. Since the filing period for the 1997 election opens on July 7, it is recommended that the ordinance be

finally approved, if at all, on or before that date in order to avoid any contention that persons seeking office did not know the length of the term. There are also requirements that notice of the adoption of the ordinance be published within ten days after its adoption and that a certified copy of the ordinance be filed with several State offices. While these are ministerial actions and probably would not be subject to the same 90-day limitation, it is nevertheless recommended that the ordinance be adopted in time to allow for completion of these actions as well before July 7. With these time constraints in mind, if Council proposes to adopt the proposed ordinance in one form or another, adoption should occur at the June 24 formal meeting.

At the direction of Council, the proposed ordinance provides that the terms of Councilmembers will be staggered so that three seats on Council will be up for election every two years. The proposed ordinance begins this staggering by designating those three individuals who receive the highest vote totals of the entire Council at the 1997 election as serving four-year terms that will expire in 2001, while the remaining three individuals elected to Council will serve two-year terms expiring in 1999. All terms thereafter would be four years. The proposed ordinance provides that the first four-year term for the Mayor would commence with the 1997 election, and expire in 2001.

Since there was some discussion at the June 3 worksession of leaving the Mayor's term at two years, and since at least one Councilmember indicated a desire to hear public comment on that particular option, an alternate proposed ordinance to that effect has been prepared. As adopted, the scope of the Resolution of Intent should be sufficient to encompass this alternate without the need to repeat the process from the beginning, and the public notice specifically mentions that this option will be discussed. Nevertheless, it should be made clear at the outset of the public hearing that comments will be received and consideration will be given to the question of a two-year term for the Mayor.

Both the proposed ordinance and the alternate have been prepared in two forms: one that would be effective upon adoption by Council, and one that would be effective only upon a vote of the people. The law permits, but does not require, that ordinances changing the form of government may be so drawn as to be effective only upon a vote of the people. The Resolution of Intent and the notice of public hearing indicated that this option would be considered.

If Council decides to make the ordinance effective upon a vote of the people, a resolution should be adopted at the same time calling for a special election, which must be held not later than 90 days after the ordinance is adopted. Notwithstanding obvious practical and logistical difficulties, legal notice requirements for special elections preclude a special election being called on this question in time to be effective for the 1997 election. Accordingly, if Council decides to employ this option, consideration should be given to coordinating the special election with the 1997 primary or general election, which the statute, G.S. sec. 163-287, permits, and adoption of the ordinance should be delayed so as to occur within 90 days of the primary or general election.

Finally, though the statute does not require that an ordinance changing the form of municipal government be put to a vote of the people, a referendum petition may be filed by which such a vote would be required. Such a petition must be filed within 30 days of the publication of notice of adoption of the ordinance, and must contain the

signatures and addresses of at least 10% or 5,000, whichever is less, of the City electorate.

Mayor Martin opened the public hearing at 3:18 p.m.

Mr. Ralph Bishop, resident of the City of Asheville, spoke in opposition to the proposed four-year terms. However, if Council decided to go forward, he suggested giving the citizens of Asheville the right to vote on the matter.

Ms. Hazel Fobes felt that City Council deserved a salary increase. In addition she felt that if Council had staggered terms that there would be a better continuity on what is going on in the process. She supported four-year staggered terms for City Council and did not have any strong feelings one way or the other for the Mayor's position to be either two or four years.

Councilman Hay felt that if the Mayor's term was two years, then the majority of Council would be up for reelection every two years. However, some people might not be willing to expend the enormous amount of time necessary fulfilling the duties of Mayor for four years.

Mayor Martin supported a four year term for the Mayor's position.

Upon inquiry of Councilman Skalski about district elections, Ms. Fobes said that she felt Asheville needed more precincts and that is being taken care of gradually. Mayor Martin felt that district elections might work in large cities, but not in cities the size of Asheville. Vice-Mayor Field did not support district elections in that she felt all citizens should have the right to vote for the entire seven member Council, not two (Mayor and district representative).

When Councilman Skalski asked Ms. Fobes what she thought about making the ordinance effective upon a vote of the people, Ms. Fobes said that she had confidence and trust in this City Council and was sure they would make the right choice.

City Attorney Oast reminded the Council that an ordinance amending the Charter that is not made subject to a vote of the people by the Council may nevertheless be put to a vote upon petition by the people.

Upon inquiry of Ms. Leah Karpen about other cities with four-year staggered terms, Mayor Martin said that he has talked with a number of Mayors and the N.C. League of Municipalities and has received positive comments from all on four-year staggered terms.

Members of the public were encouraged to write or call Councilmembers with their thoughts on this issue.

Mayor Martin closed the public hearing at 3:36 p.m.

CONSULTANT'S REPORT ON THE DEVELOPMENT PERMITTING POLICIES, PROCESSES AND PROCEDURES AND FUNCTIONAL ANALYSIS OF THE FINANCE DEPARTMENT

Mr. John T. Maxwell, Vice-President of Municipal Advisors Inc., said that the purpose of the development permitting policies, processes and procedures analysis was to (1) study the policies, processes and procedures relating to site and building plan review and inspection; (2) evaluate the site and building plan review processes; and (3) develop recommendations to improve the process(es) and procedures to facilitate development in Asheville without compromising the integrity of existing

regulatory processes. He then explained the study methodology. Mr. Maxwell then reviewed the report which delineated the concerns of participants in the development permitting process and the actions the City has taken to address them. He then outlined his findings and recommendations pertaining to (1) improving development permitting processes, (2) increasing staff productivity, and (3) enhancing communications between and among City departments and members of the development community.

Mr. Maxwell briefly reviewed the functional analysis of the Finance Department. He said the report addresses the concerns and issues pertaining to the functions of the Finance Department. The report contains recommendations regarding the need to strengthen the relationship between capital project coordination, accounting and financial reporting. Also included are recommendations to improve communications and coordination among staff involved in enforcing on-street parking regulations. He noted a major recommendation in the report is the transfer of the Fleet Management Division to the Department of Public Works.

It was the consensus of City Council to instruct the City Manager to proceed with changes based on the findings and recommendations outlined in the reports.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

SANITATION RE-ROUTING

Ms. Suzanne Molloy, Assistant Director of Public Works, briefed Council on solid waste collection services which will be substantially modified via route changes and districting to enhance customer service, increase efficiency, and improve performance monitoring.

Over the past year, Public Works staff has carried out a broad evaluation of our current service levels and performance to include field assessments of all routes, surveys of other municipalities, and surveys of all levels of employees. Staff evaluated the current routing system in conjunction with existing equipment and personnel for the purpose of maximizing efficiency, reducing customer complaints, and increasing overall service levels.

Currently, sanitation collection routes and methodologies utilized by the City are based upon routes (home grown) that are unevenly distributed throughout the City and not logically routed to minimize crew time and vehicular traffic within neighborhoods. Furthermore, the current system does not facilitate the goal of collecting yard waste two times per month.

When staff evaluated the data and related information, it was determined that the optimal solution to increase service levels and reduce customer complaints was to designate four Districts with easily identifiable boundaries. District 1, 2, 3, and 4 will be picked up on Monday, Tuesday, Wednesday, and Thursday, respectively. These routes are further grouped such that future growth and development within the City can be accommodated with less impact to existing customers.

The new district system will provide the following benefits to customers and the internal organization:

- Any future changes in routes will not require changing customer collection days which become habitual;
- Annexation or new customers will not affect nearby or surrounding customers. Route changes can occur within a District without the customer ever being aware;
- Sanitation/recycling traffic in neighborhoods will be reduced to only one day per week;
- Customer Service will be simplified and straightforward, which minimizes potential of miscommunications;
- Distribution of educational materials will be more efficient;
- Yard waste collection services will be formalized and increases to twice monthly without staff additions;
- Since all vehicles will be in one District of town on the same day, vehicle breakdowns which typically cause a lag in service can be covered by other crews due to location grouping (same day general area support);
- Less mid-level supervision will be needed;
- Performance monitoring of crews will be easier;
- Cross-training of employees on routes will be easier; and
- The new system is GIS-based which will facilitate rapid analysis and evaluations in the future.

Customer service relations and education during this time period is extremely important to the success of the transition from existing routes to the new districts. It is staff's opinion that the re-routing of the City's 24,000 customers has the potential for resistance by some of the customers, especially those who do not place their garbage at the curb on the newly prescribed schedule.

In order to facilitate the changes which will take effect on July 7, 1997, staff is providing both written literature directly to all customers, including a calendar. Staff further has initiated an advertising campaign to include Public Service Announcements, City-wide advertising through newspaper and television, and customer service training sessions. Staff will also provide additional collection service to customers during the transition period to assist in cases where customers who fail to set out their materials on the new day of collection.

While the disruption of existing routes may cause immediate trepidation to many customers, the proposed re-routing system will provide numerous benefits city-wide. The Public Works Department is committed to improving services and developing a nucleus around which the Sanitation Division can remain competitive.

GLENDALE AVENUE BRIDGE BIDS AND BUDGET AMENDMENT

Ms. Suzanne Molloy, Assistant Director of Public Works, said that the City, through the Public Works Department, solicited bids for this project. These bids were in response to a readvertisement and rebid of the projects after insufficient bids were initially received at the time of the first bid opening. Two bid proposals were received. The bidders were qualified and are listed below:

	MB Participation	Bid Base
R.E. Burns and Sons Statesville, N.C.	9%	$743,825.85
Taylor and Murphy Construction Co. Asheville, N.C.	11%	$794,892.85

After review of these bid proposals and the qualification process of the bidders, it was determined that R.E. Burns and Sons, Co., Inc. of Statesville, North Carolina should be selected as the lowest qualified bidder and City staff would seek City Council approval to authorize the City Manager to enter into a contract to construct the replacement bridge in the amount of $743,825.85 upon concurrence by the N. C. Dept. of Transportation.

The Glendale Avenue Bridge is included in the Federal Aid of System Bridge Replacement Programs. The N. C. Dept. of Transportation will reimburse the City of Asheville for 80% of all associated costs. The requested budget amount for the total project, including preliminary assessment, design, right-of-way acquisition, utility relocation, construction, contract administration, and contingencies is estimated to be $1,107,125 of which the N. C. Dept. of Transportation will reimburse the City $885,700. The City of Asheville will expend an estimated $221,425 after final reimbursements from the N. C. Dept. of Transportation. Currently, funds in the amount of $103,000 are budgeted for this project. Therefore, a budget ordinance amendment and appropriation is required in the amount of $1,004,125 for the total project.

The Public Works Department staff recommends City Council adopt a resolution authorizing the City Manager to enter into contract with R.E. Burns and Sons, Co., Inc. to construct a replacement for the existing bridge on Glendale Avenue over Swannanoa River in Asheville, N.C., after final concurrence from the N. C. Dept. of Transportation. Staff further recommends City Council adopt a budget ordinance amendment in the total amount of $1,107,125 for the entire project.

There was some discussion about what the N. C. Dept. of Transportation estimated the project to cost in 1992 and the actual prices.

Councilman Worley said that he had received a call from someone who asked about preserving the bridge for historical purposes. Ms. Maggie O'Connor, Historic Resources Commission Director, said that she has also talked to someone concerning this matter, but the bridge is rated in very poor condition and the State would probably not agree to preserving the bridge.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

APPROVAL OF THE BUNCOMBE COUNTY SOLID WASTE MANAGEMENT PLAN

Ms. Karen Rankin, Waste Management Coordinator, said that in accordance with N. C. Gen. Stat. sec. 130A-309.09A(b), the City of Asheville must develop a ten-year solid waste management plan or participate in a joint plan with other local governments.

The Buncombe County Solid Waste Division has developed a plan to comply with N. C. Gen. Stat. sec. 130A-309.09A(b). The County Commissioners will address approval of the plan at their June 17 session. The City must either approve the county plan or develop its own by July 1, 1997.

Development of a City plan was considered but rejected due to the fact that solid waste collection and disposal in the City is directly tied to County operations. The City currently transports its waste to the Buncombe County Transfer Station and pays the County for disposal at

its landfill. Illegal dumping problems in the City are often handled jointly with County staff.

The Buncombe County plan establishes two goals for the planning period:

- a 40% waste diversion from its Subtitle D lined landfill, based on FY 88-89 waste disposal figures. The County contends it has already achieved a 20% diversion rate.
- a 10% per capita waste reduction based on FY 1995-96 waste generation rates.

The goals are non-binding and can be modified during plan updates and revisions. The plan does not require the City to undertake any specific actions or alter its current programs in any way. With adoption of this plan, the City agrees only to make a good faith effort in assisting the County in achieving its goals.

In the plan, the County expresses its intent to:

- undertake a full cost accounting of solid waste operations in Buncombe County to increase efficiency and waste awareness;
- develop means to encourage cooperation among governmental agencies, non profit organizations, and the commercial/industrial sector;
- promote effective use of available funding; and
- increase waste education efforts.

The County also intends to develop a task force comprised of representatives from each participating municipality to coordinate implementation of the plan. All other municipalities in Buncombe County have expressed their intention to approve the County plan. By participating in the County plan, the City will show its support for intergovernmental cooperation and ensure itself a voice in future County-wide solid waste planning.

Staff recommends adoption of the resolution approving the Buncombe County Solid Waste Management Plan.

Vice-Mayor Field, member of the County Solid Waste Committee, supported Asheville's endorsement of the County's Plan.

Upon inquiry of Councilman Cloninger, Ms. Rankin said that there is not a market for recycling magazines at this time.

Mr. Fobes felt that the County's Solid Waste Management Plan is a good comprehensive plan and the City should become a part of it.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

CONSULTANT FOR PARKS & RECREATION MASTER PLAN

Mr. Irby Brinson, Director of Parks & Recreation, said that over the past several months, the Parks and Recreation Advisory Board and staff have gone through an extensive evaluation process to solicit the services of a consulting firm to do a Comprehensive Master Plan for Parks and Recreation for the next 20 years.

This Plan will provide an evaluation of existing recreational facilities and programs and will also provide projections for future

recreation programs and facilities. The Plan will assist the City by developing a comprehensive action plan for future funding and priority needs. The purpose of this Plan is to get a good comprehensive picture of our current recreation services and project what the community wants in the future. The benefit of the Plan will be that citizens will have input on the recreational needs in the future and it will also give City Council an indication on what those needs are so they can plan for those financially.

Proposals were solicited from firms throughout the southeast to provide this service with seven firms submitting proposals. Each of the firms were evaluated based upon a matrix developed by staff to help determine the best qualified consulting firm. Through this extensive evaluation, it was determined that Woolpert, LLP, met all of the qualifications that we required in order to develop a comprehensive plan that was based upon an extensive process of community involvement. The cost for providing this service by Woolpert, LLP, is $78,120. Funds for payment for this service are currently available within the Parks and Recreation's Capital Improvement Project allocation. The Parks and Recreation Advisory Board and staff feel that this comprehensive plan is necessary in order to adequately address the future recreation needs for the City of Asheville.

Parks and Recreation recommends authorizing the City Manager to enter into a contract with Woolpert, LLP, to develop a Comprehensive Master Plan.

Upon inquiry of Councilman Skalski about a designation for parks in the UDO, Mr. Brinson said that parks are permitted in all districts.

When Councilman Worley asked if the greenway master plan will be addressed in this master plan, Mr. Brinson said it would be addressed separately, but each plan will compliment each other.

Mayor Martin suggested working with surrounding counties to see if a greenway could be developed for the entire length of the Blue Ridge Parkway. Mr. Brinson responded that the Land-of-Sky Regional Council is currently working on that.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

HISTORIC SIGN DESIGNATION FOR T.S. MORRISON

Ms. Maggie O'Connor, Historic Resources Commission Director, asked for consideration of the T.S. Morrison goldleaf sign located at 39 North Lexington Avenue to be designated as a landmark sign.

The owner of T.S. Morrison's is requesting landmark designation of one 3" x 30" goldleaf T. S. Morrison sign. Installed in 1932, the T. S. Morrison sign is 3 inches by 30 inches goldleaf reverse on glass. Goldleaf or gilding is both elegant and durable. These properties made it among the most popular sign materials in the late 19th and early 20th centuries.

The sign meets criteria A & C for landmark designation for the following reasons:

- T. S. Morrison's has been an Asheville retail store since 1891, the goldleaf sign represents and identifies one of Asheville's oldest stores.

- Goldleaf or gilding is both elegant and durable. These properties made it among the most popular sign materials in the late 19th and early 20th centuries. Reverse on glass goldleaf signs use goldleaf ranging from 12 to 23 karats. The gold is alloyed with copper and silver in varying amounts for differences in color.

At their regularly scheduled May meeting, HRC by a unanimous vote recommended to City Council that the T. S. Morrison goldleaf sign located at 39 North Lexington Avenue be designated a landmark sign.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

HISTORIC SIGN DESIGNATION FOR SLUDER FURNITURE COMPANY

Ms. Maggie O'Connor, Historic Resources Commission Director, asked for consideration of the Sluder Furniture Company's four signs that are painted on the interior of the display windows at 25 Broadway be designated as landmark signs.

The owner of Sluder Furniture Company is requesting landmark Designation of four signs that are painted on the interior of the display windows.

The Sluder signs are similar to the original goldleaf signs that were destroyed in the 1987 Globe fire. The two signs on the front windows are 1.23 square feet each and the two signs on the interior faces are 1.25 square feet each.

The signs meet criteria A for landmark designation for the following reasons:

- The signs represent a retail business that contributes to the character and history of the city. Sluders is the fifth oldest business in downtown Asheville.

- The Sluder signs are similar to the original goldleaf signs that were destroyed in the 1987 Globe fire. Remnants of the plate glass with the original signs were saved and duplicated with paint on the new display windows.

At their regularly scheduled May meeting HRC by a unanimous vote recommended to City Council that the four painted Sluder Furniture Company signs located at 25 Broadway be designated as landmark signs.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

ASHEVILLE TRANSIT CENTER BIDS

Mr. Carl Ownbey, Urban Planner, said that the Asheville Transit System has received construction bids from four local general contractors to construct the downtown transit center on Aston Street. Of the four contractor's bids, two bids are extremely close to the amount of funds available in the grant. All four of the bidders have been deemed responsive by the architect, who will be the construction administrator.

The Asheville Transit Authority reviewed the bids at their June 11 meeting and recommended that along with the base bid, Alternates M-1 (heaters), E-2 (electrical panel), and GC-2 (deduct landscaping) be considered. This will make Buncombe Construction's bid low but above the available funds. We would like to negotiate with Buncombe Construction to get the bid below the available funds and request that they provide the landscaping as part of this negotiated bid.

If negotiations are successful, we would request that Council award the contract at their June 24 formal meeting so the contractor can begin immediately.

The Asheville Transit Authority and Planning Staff request approval to enter into negotiations with Buncombe Construction to decrease the amount of the construction bid and include landscaping.

Mr. Ownbey explained that additional funding may be needed (1) if they run across contaminated soil; (2) for possible large rock excavation; and (3) installation of traffic signals.

Upon inquiry of Vice-Mayor Field, City Attorney Oast said that the statutes only allow negotiating with the lowest responsible bidder in this situation.

When Vice-Mayor Field asked if she had a conflict of interest since her firm works closely with all four bidders (but she is only an employee and would not benefit from awarding the contract), City Attorney Oast said that he would research that question and report back at the next meeting.

Upon inquiry of Vice-Mayor Field about fire alarms, Mr. Ownbey said that the Management Company will install fire and burglar alarm systems.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

CLOSED SESSION

At 5:07 p.m., Councilman Worley moved to go into closed session in order to discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council - statutory authority is G.S. 143-318.11 (a) (4). This motion was seconded by Councilman Sellers and carried unanimously.

At 5:30 p.m., Councilman Skalski moved to come out of closed session. This motion was seconded by Councilman Worley and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:30 p.m.

COUNCIL CHAMBER RENOVATIONS

Electronic Interiors Inc. presented their preliminary design concept for the Council Chamber. They reviewed (1) presentation sources; (2) presentation displays; (3) audio systems; (4) intuitive presenter control system; and (5) cable coverage system.

Electronic Interiors will refine the construction bid documents, based upon the input received, and prepare some estimates for the different components.

Magdalen Burleson
CITY CLERK

MAYOR

CAsh

DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

ARCHIVES AND RECORDS SECTION

CERTIFICATE OF AUTHENTICITY

This is to certify that the microphotographs appearing on this film are true and accurate reproductions of records originated during the normal course of business by the City of Asheville Buncombe County and consist of Minutes and Includes Index

The records begin with Volume: 66 Year: November 26, 1996 Page: 1

and end with Volume: 66 Year: June 17, 1997 Page: 404

It is further certified that the above records were microfilmed in conformity with the provisions of the *General Statutes of North Carolina*, chapter 8-45.1 and 8-45.4, *"Uniform Photographic Copies of Business and Public Records as Evidence Act"*; that the microphotography processes accurately reproduce the records so microfilmed; that the film forms a durable medium for reproducing the original, if necessary; and that the film used conforms to American National Standards Institute, *Photographic Films-Specifications for Safety Film,ANSI IT9.6-1991* and American National Standards Institute, *Imaging Media (Film)-Silver Gelatin Type-Specifications for Stability, ANSI NAPM IT9.1-1992.*

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Marion L. Parnell

Microfilm Camera Operator

NCDA&H

END

OF REEL

PM-MGP
METRIC GENERAL PURPOSE TARGET
PHOTOGRAPHIC

200 mm

150 mm

100 mm

A5

A4

A3

1.0 mm

1.5 mm

2.0 mm

2.5 mm

ABCDEFGHIJKLMNOPQRSTUVWXYZ
abcdefghijklmnopqrstuvwxyz
1234567890

PRECISION℠ RESOLUTION TARGETS

PIONEERS IN METHYLENE BLUE TESTING SINCE 1974

3308 - 134th STREET WEST, BURNSVILLE, MN 55337 USA
TEL: 612 895 8699 FAX 612 895 8688

ABCDEFGHIJKLMNOPQRSTUVWXYZ
abcdefghijklmnopqrstuvwxyz
1234567890

4.5 mm

ABCDEFGHIJKLMNOPQRSTUVWXYZ
abcdefghijklmnopqrstuvwxyz1234567890

3.5 mm

ABCDEFGHIJKLMNOPQRSTUVWXYZ
abcdefghijklmnopqrstuvwxyz1234567890

3.0 mm